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TITLE 3—THE PRESIDENT PROCLAMATION 3249

ENLARGING THE CAPITOL REEF NATIONAL MONUMENT, UTAH

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA
A PROCLAMATION

WHEREAS it appears that the public interest would be promoted by adding to the Capitol Reef National Monument, Utah, certain adjoining lands needed for the protection of the features of geological and scientific interest included within the boundaries of the monument and for the proper administration of the area:

NOW, THEREFORE, I, Dwight D. Eisenhower, President of the United States of America, by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U. S. C. 431), do proclaim that, subject to valid existing rights, (1) the lands now owned by the United States within the exterior boundaries of the following-described tracts of lands are hereby added to and made a part of the Capitol Reef National Monument, and (2) the State-owned and privately-owned lands within those boundaries shall become parts of the monument upon acquisition of title thereto by the United States:

SALT LAKE MERIDIAN

T. 29 S., R. 5 E.,
Sections 1 and 2, those portions not previously included in the Monument.

T. 29 S., R. 6 E.,
Sections 5, 6, 9, and 16, those portions not previously included in the Monument;
Sections 7, 8, and 17, those portions lying north of Sulphur Creek;

Section 26, SW $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 30 S., R. 7 E.,
Section 20, NW $\frac{1}{4}$ SE $\frac{1}{4}$ (except S $\frac{1}{2}$ S $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) and NE $\frac{1}{4}$ SE $\frac{1}{4}$ (except S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$).

containing 3,040 acres, more or less.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

Nothing herein shall prevent the movement of livestock across the lands

included in this monument under such regulations as may be prescribed by the Secretary of the Interior and upon driveways to be specifically designated by said Secretary.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this second day of July in the year of our Lord nineteen hundred and [SEAL] fifty-eight, and of the Independence of the United States of America the one hundred and eighty-second.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 58-5257; Filed, July 7, 1958;
1:13 p. m.]

TITLE 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P. P. C. 612, 13th Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—KHAPRA BEETLE

REVISED ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS

Pursuant to § 301.76-2 of the regulations supplemented to the Khapra Beetle Quarantine (7 CFR 301.76-2 as amended, 22 F. R. 2656; cf. 22 F. R. 2679) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), revised administrative instructions are hereby issued as follows, listing premises in which infestations of the khapra beetle have been determined to exist and designating such premises as regulated areas within the meaning of said quarantine and regulations.

§ 301.76-2a Administrative instructions designating certain premises as regulated areas under the khapra beetle quarantine and regulations. Infestations of the khapra beetle have been determined to exist in the premises listed

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in paragraphs (a) and (b) of this section. Accordingly, such premises are hereby designated as regulated areas within the meaning of the provisions in this subpart:

(a)

ARIZONA

Elmer Emrick Farm, Route 1, Box 154, Somerton.
Arnold Gillatt Stable, 3231 North Crockett, Tucson.

Hundred Eleven Ranch (Sombbrero Butte), Mammoth.
Mission Road Market, 1256 Mission Road, Tucson.

Emon Parker Chicken Yard, 4129 East Magnolia Street, Tempe.

Tom Rhodes Ranch, P. O. Box 96, Mammoth.

Rhodes-Mercer 111 Farm, Mammoth.

River Farm, 3100 South Seventh Street, Phoenix.

Shady Acres Nursery & Bird Farm, 3640 East Washington Street, Phoenix.

Frank Spatig Farm, Route 1, Box 184, Somerton.

Ernest Williams Chicken Yard, Route 1, Somerton.

Thomas C. Windsor residence, 1161 Tenth Avenue, Yuma.

Yuma Feed & Equipment Co., 757 Magnolia Avenue, Yuma.

CALIFORNIA

A. Abma Feed Lot and Storage, Route 1, Box 283, Wasco.

Ray Ansolabehers property, 7105 Fruitvale Avenue, Bakersfield.

Barling Brothers (Home Ranch), one-half mile north of Palm Avenue, Wasco.

Barling Brothers Ranch (Desert Property), one-half mile west of Rawlee Road, Wasco.

Barling Brothers Ranch (E. Kimberlina), 640 G Street, Wasco.

Coachella Valley Feed Yard, located east side of Highway 111, south of Avenue 54, mail address Box 226, Coachella.

Joe's Poultry Ranch, Road 47 and East A, Brawley.

C. A. Nielson property, located across the street from Bard Grocery and Post Office, Bard.

Ruth H. Penner, Sec. 2, T. 27 S., R. 24 E., MDM, 0.6 mile west of the intersection of Palm and Gromer Avenues, P. O. Box 186, Wasco.

Fred Smith Turkey Ranch, 4638 South Temperance, Fresno.

(b) The portion of each of the following premises in which live khapra beetles were found has received the approved fumigation treatment, but these premises must continue under frequent observation and inspection for a period of one year following fumigation before a determination can be made as to the adequacy of such treatment to eradicate the khapra beetle in and upon such premises.

During this period regulated articles may be moved from the premises only in accordance with the regulations in this subpart.

ARIZONA

LaSalvia Dairy, Box 116, Laveen Stage, Phoenix.

CALIFORNIA

P. Callo property, located 2 miles west of the intersection of Roads 90 and West C on the south side of Road 90, P. O. Box 44, Niland.

Floyd B. Carrion property, located on the south side of Avenue 70, 0.8 mile west of Lincoln Street, P. O. Box 564, Mecca.

Tom Mejia property, located at the southwest corner of the intersection of Roads 90 and West C, P. O. Box 662, Niland.

Martin Valdez property, located at the intersection of Roads 90 and West E, P. O. Box 403, Niland.

NEW MEXICO

M. M. Martin Farm, located 11 miles south of Tolar.

This revision has the effect of revoking the designation as regulated areas of certain premises in Arizona and California, it having been determined by the Director of the Plant Pest Control Division

that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. It also adds certain premises in Arizona and California to the list of premises in which khapra beetle infestations have been determined to exist, and designates such premises as regulated areas under the khapra beetle quarantine and regulations.

As an informative item, the revision also segregates certain regulated premises in Arizona, California, and New Mexico where the approved fumigation treatment has been applied to the portion of the premises in which live khapra beetles were found and which are consequently in a somewhat different category than untreated premises.

These administrative instructions shall become effective July 9, 1958, when they shall supersede P. P. C. 612, Twelfth Revision, effective June 12, 1958 (23 F. R. 4142).

These instructions, in part, impose restrictions supplementing khapra beetle quarantine regulations already effective. They also relieve restrictions insofar as they revoke the designation of certain regulated areas. They must be made effective promptly in order to carry out the purposes of the regulations and to be of maximum benefit in permitting the interstate movement, without restriction under the quarantine, of regulated products from the premises being removed from designation as regulated areas. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 9, 37 Stat. 318; 7 U. S. C. 162. Interprets or applies sec. 8, 37 Stat. 318; as amended; 7 U. S. C. 161)

Done at Washington, D. C., this 3d day of July 1958.

(SEAL)

E. D. BURGESS,

Director,

Plant Pest Control Division.

[P. R. Doc. 58-5231; Filed, July 8, 1958; 8:50 a. m.]

Chapter IV—Federal Crop Insurance Corporation

PART 401—FEDERAL CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1958 AND SUCCEEDING CROP YEARS

COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

The following counties are hereby added to the list of counties published January 16, 1958 (23 F. R. 290), as supplemented by appendixes published March 25, 1958 (23 F. R. 1943), and April 25, 1958 (23 F. R. 2769), which were designated for wheat crop insurance for the 1959 crop year pursuant to authority contained in paragraph (a) of § 401.1 of

the above-identified regulations, as amended (22 F. R. 6557, 7210, 8473, 9515, 11024; 23 F. R. 289, 869, 1943, 2373, 2481, 2586, 2635, 2769, 3143).

Illinois: Fulton.

Kansas: Brown, Butler, Jackson.

North Carolina: Iredell.

Ohio: Ashland.

Oklahoma: Jackson, Logan.

(Secs. 506, 516, 52 Stat. 73, as amended; 77, as amended; 7 U. S. C. 1506, 1516. Interprets or applies secs. 507-509, 52 Stat. 73-75, as amended; 7 U. S. C. 1507-1509)

(SEAL)

F. N. MCCARTNEY,

Manager,

Federal Crop Insurance Corporation.

[P. R. Doc. 58-5214; Filed, July 8, 1958; 8:48 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[1026 (Cigar-Binder and Cigar-Filler and Binder-58)-1]

PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

CIGAR-BINDER (TYPES 51 AND 52) TOBACCO, AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54 AND 55) TOBACCO MARKETING QUOTA REGULATIONS, 1958-59 MARKETING YEAR

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- Sec.
723.957 Separate records and reports from persons engaged in more than one business.
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723.959 Additional records and reports to Director.
723.960 Examination of records and reports.
723.961 Length of time records and reports to be kept.
723.962 Information confidential.

AUTHORITY: §§ 723.930 to 723.962 issued under sec. 375, 52 Stat. 66 as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 314, 372-375, 52 Stat. 38 as amended, 47 as amended, 48 as amended, 65 as amended, 66 as amended, secs. 125, 211, 70 Stat. 198, 202; 1813, 1860. 7 U. S. C. 1301, 1313, 1314, 1372-1375.

GENERAL

§ 723.930 *Basis and purpose.* Sections 723.930 to 723.962 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, the Agricultural Act of 1949 and the Agricultural Act of 1956, and govern the issuance of marketing cards for marketing and price support purposes, the identification of tobacco for purposes of marketing restrictions and price support, the collection and refund of penalties, and the records and reports incident thereto on the marketing of cigar-binder (types 51 and 52) tobacco, and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco during the 1958-59 marketing year. Prior to preparing §§ 723.930 to 723.962, public notice (23 F. R. 2611) of their formulation was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to §§ 723.930 to 723.962 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Acts of 1949 and 1956.

§ 723.931 *Definitions.* As used in §§ 723.930 to 723.962, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) "Buyer" means a person who engages to any extent in the business of acquiring tobacco from producers without regard to whether such person is registered as a dealer with the Bureau of Internal Revenue. In the case of a person who employs person(s) to negotiate contracts with producers to purchase their tobacco such person rather than such employed person(s) is the buyer of such tobacco.

(c) "Carry-over" tobacco means, with respect to a farm, tobacco produced prior to the beginning of the calendar year 1958 which has not been marketed or which has not been disposed of under § 723.845.

(d) Committees:

(1) "Community committee" means the persons elected within a community as the community committee pursuant to regulations governing the selection and functions of Agricultural Stabiliza-

tion and Conservation county and community committees.

(2) "County committees" means the persons elected within a county as the county committee pursuant to regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

(3) "State committee" means the persons in a State designated by the Secretary as the Agricultural Stabilization and Conservation State committee.

(e) "County office manager" means the person employed by the county committee to execute the policies of the county committee and be responsible for the day-to-day operations of the ASC county office, or the person acting in such capacity.

(f) "Deputy Administrator" means the Deputy Administrator or the Acting Deputy Administrator for Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(g) "Director" means the Director or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(h) "Farm": The definition of this term as set forth in Part 718 of this chapter shall apply in the regulations in this part.

(i) "Market" means the disposition in raw or processed form of tobacco by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. "Marketing" and "marketed" shall have corresponding meanings to the term "market."

(j) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(k) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity, and wherever applicable, a State, a political subdivision of a State or any agency thereof.

(l) "Producer" means a person who as owner, landlord, tenant or sharecropper, is entitled to share in the tobacco available for marketing from the farm or in the proceeds thereof.

(m) "Pound" means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by producers, would equal one pound standard weight.

(n) "Sale" means the first marketing of farm tobacco on which the gross amount of the sales price therefor has been or could be readily determined.

(o) "Sale date" means the date on which the gross amount of the sales price of the first marketing of farm tobacco has been or could be readily determined.

(p) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(q) "State administrative officer" means the person employed by the State committee to execute the policies of the State committee and be responsible for

the day-to-day operations of the ASC State office, or the person acting in such capacity.

(r) "Tobacco" means:

(1) The types set forth below, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or all such types of tobacco as indicated by the context.

(i) Type 42 tobacco, that type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(ii) Type 43 tobacco, that type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(iii) Type 44 tobacco, that type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio;

(iv) Type 51 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced primarily in the valley area of Connecticut;

(v) Type 52 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, or Havana Seed of Connecticut and Massachusetts, produced primarily in the Connecticut Valley area of Massachusetts and Connecticut;

(vi) Type 53 tobacco, that type of cigar-leaf tobacco commonly known as York State Tobacco, or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats section of New York, extending into Pennsylvania and in the Onondaga section of New York State;

(vii) Type 54 tobacco, that type of cigar-leaf tobacco commonly known as Southern Wisconsin cigar-leaf or Southern Wisconsin binder type produced principally south and east of the Wisconsin River; and

(viii) Type 55 tobacco, that type of cigar-leaf tobacco commonly known as Northern Wisconsin cigar-leaf or Northern Wisconsin binder type, produced principally north and west of the Wisconsin River.

(2) Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco. The term "tobacco" shall include all leaves harvested, including trash.

(3) For the purpose of discovering and identifying all tobacco subject to marketing quotas the term "tobacco" with respect to any farm located in an area in which any kind of tobacco subject to marketing quotas is normally produced, shall include all acreage of tobacco on the farm, including any acreage which the farm operator may contend is not devoted to the production of tobacco as defined herein. The acreage of each kind of tobacco (cigar-binder (types 51

and 52) and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) shall be determined by the county committee on the basis of seeding, cultivating, curing, and marketing practices commonly known to the area. Such determination shall include all acreage of tobacco on the farm. The production of the acreage of each kind of tobacco so determined shall be considered to be tobacco of the kind available for marketing until such time as the operator of the farm furnishes to the county committee satisfactory proof that a part or all of the production of such acreage has been classified pursuant to Part 29 of this title when marketed, as a different kind of tobacco. Any amount of tobacco so classified as a different kind shall be converted to acres on the basis of the average yield per acre of the entire acreage of tobacco grown on the farm in 1958 for the purpose of determining the harvested acreage of such kind of tobacco produced on the farm.

(s) "Tobacco available for marketing" means all tobacco produced on the farm in the calendar year 1958 plus any carry-over tobacco, less any tobacco disposed of in accordance with § 723.945.

(t) "Tobacco subject to marketing quotas" means any cigar-binder (types 51 and 52) tobacco or any cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco marketed during the period October 1, 1958, to September 30, 1959, inclusive, and any cigar-binder (types 51 and 52) tobacco or any cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco produced in the calendar year 1958 and marketed prior to October 1, 1958.

(u) "Trucker" means a person who engages to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the farm and in the condition in which it is usually marketed by producers.

§ 723.932 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator.

§ 723.933 *Extent of calculations and rule of fractions.*—(a) *Harvested acreage.* The acreage of tobacco harvested on a farm in 1958 shall be expressed in hundredths and fractions of less than one hundredth of an acre shall be dropped. For example, 1.550, 1.555, or 1.559 acres would be 1.55 acres.

(b) *Percent excess.* The percentage of excess tobacco available for marketing from a farm, hereinafter referred to as the "percent excess," shall be expressed in tenths and fractions of less than one-tenth shall be dropped. For example, 12.59 percent would be 12.5 percent.

(c) *Converted rate of penalty.* The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in

tenths of a cent and fractions of less than a tenth shall be dropped, except that if the resulting converted rate of penalty is less than a tenth of a cent, it shall be expressed in hundredths and fractions of less than a hundredth shall be dropped. For example, 3.68 cents per pound would be 3.6 cents, and 0.068 cent per pound would be 0.06 cent.

IDENTIFICATION AND LOCATION OF FARMS AND DETERMINATION OF ACREAGE

§ 723.934 *Identification and location of farms.* (a) Each farm as operated for the 1958 crop of tobacco shall be identified by a farm serial number assigned by the county office manager and all records pertaining to marketing quotas for the 1958 crop of tobacco shall be identified by such number.

(b) A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

§ 723.935 *Determination of tobacco acreage.*—(a) *County committees.* For the purpose of ascertaining with respect to each farm whether there is excess tobacco of the 1958 crop available for marketing, the county committee shall determine the acreage of tobacco on each farm in the county for which a 1958 tobacco acreage allotment has been established and on any other farms in the county on which the county committee has reason to believe tobacco was planted. The county committee's determination shall be based upon acreage and performance determined as provided in the applicable provisions of Part 718 of this chapter.

(b) *Tolerance in measured acreage.* For the purpose of §§ 723.930 to 723.962, inclusive, and subject to the rule of fractions heretofore provided in § 723.933 (a), if the determination of the county committee of the planted or the harvested acreage of tobacco on a farm is in excess of the farm tobacco acreage allotment and the excess acreage is not more than the smaller of two percent of such acreage allotment or nine hundredths (0.09) of an acre, in either case the planted or harvested acreage of tobacco on such farm shall be deemed to be the same acreage as the tobacco acreage allotment established for such farm: *Provided*, That if the determination of the county committee of the planted or harvested acreage of tobacco on any farm is in excess of the farm tobacco acreage allotment by more than the smaller of two percent of such acreage allotment or nine hundredths (0.09) of an acre, all such planted or harvested acreage of tobacco in excess of the farm tobacco acreage allotment as determined by the county committee shall be tobacco acreage in excess of the allotment.

(c) *Notice to farm operators.* The county committee shall notify the farm operator of the measured acreage of tobacco on each farm as determined under the provisions of this section.

(d) *Harvested acreage of tobacco.* The acreage of tobacco determined or as re-determined for a farm by the county

committee pursuant to this section shall be the harvested acreage of tobacco for the farm for the purpose of issuing the correct marketing card for the farm as provided in § 723.938 unless the farm operator furnishes to the county committee satisfactory proof that a portion of the acreage planted will not be harvested or that a representative portion of the production of the acreage physically harvested will be disposed of other than by marketing, in which case the harvested acreage shall be the acreage as adjusted by taking into account the portion of the acreage planted which will not be harvested or the portion of the production of the acreage physically harvested which will be disposed of other than by marketing.

(e) *Acreage not determined.* If the farm operator or his representative prevents the county committee from obtaining information necessary to determine the correct acreage of tobacco on a farm, in addition to any other liability which might be imposed upon the operator, and until the farm operator or his representative permits a determination of the correct acreage, all acreage of tobacco on the farm shall be deemed to be in excess of the farm acreage allotment for the purpose of issuing a marketing card for the farm.

(f) *Prior measurements.* Measurements made prior to the effective date of this section, and in accordance with procedures then in effect may be utilized where pertinent for the purpose of ascertaining with respect to any farm the 1958 tobacco acreage and the tobacco acreage in excess of the 1958 farm tobacco acreage allotment.

FARM MARKETING QUOTAS AND MARKETING CARDS

§ 723.936 *Amount of farm marketing quota.*—(a) *Actual production.* The marketing quota for a farm shall be the actual production of tobacco on the farm acreage allotment as established for the farm in accordance with 1023 (Cigar-Binder and Cigar-Filler and Binder-58)-1, Marketing Quota Regulations 1958-59 (§§ 723.912 to 723.928; 23 F. R. 4351, 6127, 23 F. R. 135). The actual production of the farm acreage allotment shall be the average yield per acre of the entire acreage of tobacco harvested on the farm in 1958 times the farm acreage allotment.

(b) *Excess production.* The excess tobacco on any farm shall be (1) that quantity of tobacco which is equal to the average yield per acre of the entire acreage of tobacco harvested on the farm in 1958 times the number of acres harvested in excess of the farm acreage allotment, plus (2) any excess carry-over tobacco.

§ 723.937 *Transfer of farm marketing quotas.* These shall be no transfer of farm marketing quotas except as provided in §§ 723.920 and 723.926 of the cigar-binder and cigar-filler and binder tobacco marketing quota regulations for determining acreage allotments and normal yields, 1958-59 marketing year.

§ 723.938 *Issuance of marketing cards.* (a) A marketing card shall be issued for

each farm having tobacco available for marketing.

(b) *Excess marketing card (MQ-77—Tobacco)*. The provisions of this paragraph govern the issuance of excess marketing cards except with respect to the issuance of marketing cards for the identification of tobacco grown for experimental purposes only, as provided in paragraph (c) (2) of this section.

(1) *Excess marketing card showing full rate of penalty*. An excess marketing card (ineligible for price support loans) showing the full rate of penalty set forth in § 723.947 (b) shall be issued for a farm in any case:

(i) Where tobacco is harvested in 1958 from a farm for which no 1958 acreage allotment was established, or

(ii) Where tobacco is harvested in 1958 from a farm and the farm operator or his representative prevents the county committee or its representative from obtaining information necessary to determine the correct acreage of tobacco on the farm.

(2) *Excess marketing card showing converted rate of penalty or zero penalty*.

An excess marketing card (ineligible for price support loans) showing the extent to which marketings of tobacco from a farm are subject to penalty, determined as provided in § 723.944 (including zero penalty except where the provisions of subdivision (ii) of this subparagraph apply), shall be issued in any case:

(i) Where tobacco is harvested in 1958 from a farm in excess of the farm acreage allotment therefor, or

(ii) Where tobacco is to be marketed from a farm in 1958 having carryover tobacco available for marketing and the percent excess determined pursuant to § 723.944 (b) exceeds zero percent, or

(iii) Where tobacco is produced on newly irrigated or drained land which was not used for the production of tobacco prior to May 28, 1956 and which is within any Federal irrigation or drainage project (as defined in section 211 of the Agricultural Act of 1956) authorized on or after May 28, 1956; or where tobacco is produced on land reclaimed by a flood-control project authorized on or after May 28, 1956; or where tobacco is produced on land owned by the Federal Government in violation of the provisions of a lease restricting the production of tobacco.

(3) *Excess marketing cards showing zero penalty only*. An excess marketing card (ineligible for price support loans) showing zero penalty only shall be issued under the following conditions:

(i) If more than one kind of tobacco is produced on a farm in 1958, a zero penalty excess marketing card shall be issued for each kind of tobacco produced thereon for which the harvested acreage is not in excess of the farm acreage allotment therefor if at the time of issuing marketing cards for the farm the harvested acreage of any kind of tobacco is in excess of the farm acreage allotment for such kind of tobacco; or

(ii) For any kind of tobacco produced on a farm in 1958 the acreage of which is in excess of the farm acreage allotment therefor and the operator or any other producer on the farm fails to file with the county ASC office a written request

(with deposit to cover the cost as estimated by the county committee) to dispose of excess tobacco or to have a remeasurement made of the tobacco acreage within ten (10) days from the date of notice to the farm operator on Form CSS-590, Notice of Excess Acreage, and the tobacco produced on the excess acreage is disposed of other than by marketing in accordance with § 723.945 unless the county committee with the approval of a representative of the State committee determines that failure to file such written request was due to circumstances beyond the control of the farm operator or producer; or

(iii) For any kind of tobacco physically harvested from a farm in 1958 from an acreage in excess of the acreage allotment for the farm and disposed of in accordance with § 723.945 (a) unless the county committee with the approval of a representative of the State committee determines that the acreage of tobacco was not measured or remeasured, as the case may be, in sufficient time to afford the farm operator an opportunity to dispose of the excess acreage prior to harvest.

(c) *Within Quota Marketing Card (MQ-76—Tobacco)*. In any case where an excess marketing card is not required to be issued for a farm under paragraph (b) of this section, a Within Quota Marketing Card (eligible for price support loans and marketing without penalty) shall be issued for such farm under the following conditions:

(1) If the harvested acreage of tobacco for the farm in 1958 is not in excess of the farm acreage allotment therefor and any excess carryover tobacco can be marketed without penalty under the provisions of § 723.944 (b).

(2) If the Director of a publicly owned Agricultural Experiment Station furnishes to the ASC State office a list by counties showing the following information with respect to each kind of tobacco and farms on which tobacco is grown for experimental purposes only:

(i) Name and address of the publicly owned experiment station,

(ii) Name of the owner, and name of the operator if different from the owner of each farm on which tobacco is grown for experimental purposes only,

(iii) The amount of acreage of tobacco grown on each farm for experimental purposes only, and

(iv) A certification signed by the Director of the publicly owned agricultural experiment station to the effect that such acreage of tobacco was grown on each farm for experimental purposes only; the tobacco was grown under his direction; and the acreage on each plot was considered necessary for carrying out the experiment; *Provided, however*, That if the Director of a publicly owned agricultural experiment station does not furnish the information and certification as required above in this subparagraph, an excess marketing card showing zero penalty shall be issued for the purpose of identifying tobacco produced for experimental purposes only under the direction of such Director. The list required in this subparagraph shall be posted and kept available for public inspection in the

ASC office of the county in which the farms included in the list are located.

(d) *Stamping Within Quota Marketing Cards (MQ-76) to show producer indebtedness*. (1) If any producer on a farm is indebted to the United States and such indebtedness is listed on the county debt register, any within quota marketing card (MQ-76) issued for such farm in accordance with paragraph (c) of this section shall bear the notation "Indebted to U. S." on the front cover thereof and on the county office copy of each memorandum of sale, and the name of the debtor and the amount of the indebtedness shall be shown on the inside back cover of the marketing card: *Provided*, That if the producer named as debtor on the card objects to the issuance of or after issuance to the use of a within quota marketing card (MQ-76) bearing the notation and information of indebtedness to the United States thereon as provided in this subparagraph, an excess marketing card (ineligible for price support loans) showing "acre penalty" shall be issued for such farm. The acceptance and use of a within quota marketing card bearing a notation and information of indebtedness to the United States by the producer named as debtor on such card, shall constitute an authorization by such producer to any tobacco loan organization to pay to the United States the price support advance due the producer to the extent of his indebtedness set forth on such card but not to exceed that portion of the price support advance remaining after deduction of usual loan organization charges, authorized price support charges and amounts due prior lien holders. The acceptance and use of a within quota marketing card bearing a notation and information of indebtedness to the United States shall not constitute a waiver of any right by the producer to contest the validity of such indebtedness by appropriate administrative appeal or legal action.

(2) Any marketing card may be stamped for the purpose of notifying loan organizations that the tobacco being marketed pursuant to such card is subject to a lien held by the United States.

(e) *Replacing or issuing additional marketing cards*. Subject to the approval of the county office manager or the State administrative officer as provided in § 723.939, two or more marketing cards may be issued for any farm. Upon the return to the ASC issuing office of the marketing card after all of the memoranda of sale have been issued therefrom and before the marketing of tobacco from the farm have been completed, a new marketing card of the same kind, bearing the same name, information and identification as the used card shall be issued for the farm. A new marketing card of the same kind shall be issued to replace a card which has been determined by the State administrative officer or county office manager, who issued the card, to have been lost, destroyed or stolen.

§ 723.939 *Persons authorized to issue marketing cards*. (a) The State administrative officer shall be responsible for the issuance of marketing cards issued

for the purpose of identifying tobacco grown for experimental purposes pursuant to the provision of § 723.938 (c) (2).

(b) Except as provided in paragraph (a) of this section, the county office manager shall be responsible for the issuance of marketing cards for farms in the county.

(c) Each marketing card shall bear the actual or facsimile signature of either the State administrative officer or the county office manager who issues the card. The facsimile signature may be affixed by an employee of the State administrative officer or of the county office manager, as the case may be.

§ 723.940 *Rights of producers in marketing cards.* Each producer having a share in the tobacco available for marketing from a farm shall be entitled to the use of the marketing card for marketing his proportionate share.

§ 723.941 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from a farm shall, to the extent of such succession, have the same rights as the producer to the use of the marketing card for the farm.

§ 723.942 *Invalid cards.* (a) A marketing card shall be invalid if:

(1) It is not issued or delivered in the form and manner prescribed;

(2) Entries are omitted or incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or

(4) Any erasure or alteration has been made and not properly initialed.

(b) In the event any marketing card becomes invalid (other than by loss, destruction, or theft, or by omission, alteration or incorrect entry which has been corrected by the State administrative officer or the county office manager who issued the card), the farm operator, or the person having the card in his possession, shall return it to the ASC office at which it was issued.

(c) If an entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the State administrative officer or the county office manager who issued the card, then such card shall become valid.

§ 723.943 *Report of misuse of marketing card.* Any information which causes a member of a State, county, or community committee, or an employee of an ASC State or county office, to believe that any tobacco which actually was produced on one farm has been or is being marketed under the marketing card issued for another farm shall be reported immediately by such person to the ASC county or State office.

MARKETING OR OTHER DISPOSITION OF TOBACCO AND PENALTIES

§ 723.944 *Extent to which marketings from a farm are subject to penalty.* (a) Marketings of tobacco from a farm having no carryover tobacco available for marketing shall be subject to penalty by the percent excess determined as follows: Divide the acreage of tobacco har-

vested in excess of the farm acreage allotment and not disposed of under § 723.945 by the total acreage of tobacco harvested from the farm.

(b) Marketing of tobacco from a farm having carryover tobacco available for marketing shall be subject to penalty by the percent excess determined as follows:

(1) Determine the number of "carryover acres" by dividing the number of pounds of carryover tobacco from the prior years by the normal yield for the farm for that year.

(2) Determine the number of "within quota carryover acres" by multiplying the "carryover acres" (subparagraph (1) of this paragraph) by the "percent within quota" (i. e., 100 percent minus the "percent excess") for the year in which the carryover tobacco was produced except that if the excess portion of the carryover tobacco has been disposed of under § 723.945, the "percent within quota" shall be 100.

(3) Determine the "total acres" of tobacco by adding the "carryover acres" (subparagraph (1) of this paragraph) and the acreage of tobacco harvested in the current year.

(4) Determine the "excess acres" by subtracting from the "total acres" (subparagraph (3) of this paragraph) the sum of the 1958 allotment and the "within quota carryover acres" (subparagraph (2) of this paragraph).

(5) Determine the percent excess by dividing the "total acres" into the "excess acres" (subparagraph (4) of this paragraph).

(6) Those persons having an interest in the carryover tobacco for a farm shall be liable for the payment of any penalty due thereon.

(c) For the purpose of determining the penalty due on each marketing by a producer of tobacco subject to penalty, the converted rate of penalty per pound shall be determined by multiplying the applicable rate of penalty by the percent excess obtained under paragraph (a) or (b) of this section. The memorandum of sale issued to identify each such marketing shall show the amount of penalty due.

§ 723.945 *Disposition of excess tobacco.*

(a) The farm operator may elect to give satisfactory proof of disposition of excess tobacco prior to the marketing of any tobacco from the farm by furnishing to the county committee satisfactory proof that excess tobacco representative of the entire crop will not be marketed.

(b) If the 1958 harvested acreage is less than the 1958 allotment an amount of any tobacco from the farm which was placed under storage for a prior marketing year equal to the normal production of the acreage by which the 1958 harvested acreage plus any acreage added with respect to any excess carryover tobacco for the farm pursuant to § 723.944 (b) is less than the 1958 allotment may be marketed penalty free.

§ 723.946 *Identification of marketing.* Each marketing of tobacco from a farm shall be identified by an executed memorandum of sale from the 1958 marketing card (MQ-76—Tobacco or MQ-77—To-

bacco) issued for the farm on which the tobacco was produced.

(a) *Memorandum of sale.* (1) If a memorandum of sale is not issued by the buyer to identify a sale of producer's tobacco by the end of the the sale date and recorded and reported on MQ-95, Buyer's Record, by the 10th day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ-95, Buyer's Record, as a marketing of excess tobacco, and reported not later than the 10th day of the calendar month next following the month during which the sale date occurred.

(2) Each excess memorandum of sale issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the memorandum of sale.

§ 723.947 *Rate of penalty.* Marketings of excess tobacco from a farm shall be subject to a penalty per pound equal to seventy-five (75) percent of the average market price for the 1957-58 marketing year as determined by the Crop Reporting Board, Agricultural Marketing Service, United States Department of Agriculture. The rate of penalty per pound shall be calculated to the nearest whole cent.

(a) *Average market price.* The average market price as determined by the Crop Reporting Board, Agricultural Marketing Service United States Department of Agriculture, for the 1957-58 marketing year was 30.6 cents per pound for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco, and 48.0 cents per pound for cigar-binder (types 51 and 52) tobacco.

(b) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the 1958-59 marketing year shall be 23 cents per pound for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco, and 36 cents per pound in the case of cigar-binder (types 51 and 52) tobacco.

(c) *Proportional rate of penalty.* With respect to tobacco marketed from farms having tobacco available for marketing in excess of the farm marketing quota, the penalty shall be paid upon that percentage of each lot of tobacco marketed which the tobacco available for marketing in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm as determined under § 723.944.

§ 723.948 *Persons to pay penalty.* The person to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Sale.* The penalty due on tobacco purchased directly from a producer, other than a buyer outside the United States, shall be paid by the buyer of the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer.

(b) *Marketings through an agent.* The penalty due on marketings by a

producer through an agent who is not a buyer shall be paid by the agent who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Marketings outside the United States.* The penalty due on marketings by a producer directly to any person outside the United States shall be paid by the producer.

§ 723.949 *Marketings deemed to be excess tobacco.* Any marketing of tobacco under any one of the following conditions shall be deemed to be a marketing of excess tobacco:

(a) *Without memorandum of sale.* Any sale of tobacco by a producer which is not identified by a valid memorandum of sale by the end of the sale date shall be deemed to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who may deduct an amount equivalent to the penalty from the amount due the producer.

(b) *Unrecorded sale.* Any sale which is not recorded in MQ-95—Tobacco by the 10th day of the month next following the month during which the sale date occurred, shall be deemed to be a marketing of excess tobacco unless and until the buyer furnishes proof acceptable to the State administrative officer showing that such marketing is not a marketing of excess tobacco. The penalty thereon shall be paid by the buyer.

(c) *Marketings falsely identified.* If any marketing of tobacco by a person other than the producer thereof is identified by a marketing card other than the marketing card issued for the farm on which such tobacco was produced, such marketing shall be deemed to be a marketing of excess tobacco and the penalty thereon shall be paid by such person.

(d) *Producer marketings.* (1) If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, an amount of tobacco equal to the normal yield of the number of acres harvested in 1958 in excess of the farm acreage allotment shall be deemed to have been a marketing of excess tobacco from such farm.

(2) If any producer who manufactures tobacco products from tobacco produced by or for him fails to make the reports, or makes a false report, required under § 723.952 (c), he shall be deemed to have failed to account for the disposition of tobacco produced on the farm and shall be subject to penalty on such tobacco. The penalty thereon for false identification or failure to account shall be paid by the producer and shall be due on the date of false identification or failure to account. The filing of a report by a producer under § 723.952 (c) or (e) which the State committee finds to be incomplete or incorrect shall constitute a failure to account for the disposition of tobacco produced on the farm.

(3) If, after part or all of the tobacco produced on a farm has been marketed, the State or county committee determines that the harvested acreage for the farm was more than that shown by the prior determination, and if the harvested acreage may not be deemed to be within the farm acreage allotment pur-

suant to paragraph (e) of this section, any penalty due on the basis of the harvested acreage as redetermined pursuant to § 723.935 shall be paid by the producer.

(e) *Erroneous notice of measured acreage.* If it is determined that the tobacco acreage on a farm is larger than the tobacco farm acreage allotment approved under § 723.927, such farm shall be deemed to have not exceeded its allotment if the county committee, with the approval of the State administrative officer, determines from the facts and circumstances that:

(1) The excess acreage was caused by reliance in good faith by the farm operator on an erroneous notice of measured acreage;

(2) Neither the farm operator nor any producer on the farm had actual knowledge of the error in time to adjust the excess acreage prior to completion of marketing of tobacco from the farm;

(3) The incorrect notice was the result of an error made by the performance reporter or by another employee of the county or State office in reporting, computing, or recording the allotment acreage for the farm;

(4) Neither the farm operator nor any producer on the farm was in any way responsible for the error; and

(5) The extent of the error in the notice was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

§ 723.950 *Payment of penalty.*—(a) Penalties shall become due at the time the tobacco is marketed, except in the case of tobacco removed from storage as provided in § 723.945 (b), or in the case of false identification or failure to account for disposition. Penalty shall be paid by remitting the amount thereof to the ASC State office, not later than the 10th day of the calendar month next following the month in which the tobacco became subject to penalty. A draft, money order, or check drawn payable to the Treasurer of the United States may be used to pay any penalty, but any such draft or check shall be received subject to payment at par.

(b) The penalty due on any sale of tobacco by a producer as determined under §§ 723.930 to 723.962 shall be paid as specified in § 723.948, even though the penalty may exceed the proceeds for the tobacco.

§ 723.951 *Request for return of penalty.* Any producer of tobacco after the marketing of all tobacco available for marketing from the farm and any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under §§ 723.930 to 723.962 to be paid. Such request shall be filed on MQ-85—Tobacco with the ASC county office within two (2) years after the payment of the penalty.

RECORDS AND REPORTS

§ 723.952 *Producer's records and reports.*—(a) *Report of tobacco acreage.* The farm operator or any producer on

the farm shall file a report with the ASC county office or a representative of the county committee on Form CSS-578, Report of 1958 Acreage, showing all fields of tobacco on the farm in 1958. If any producer on a farm files or aids or acquiesces in the filing of any false report with respect to the acreage of tobacco grown on the farm even though the farm operator or his representative refuses to sign such report, the allotment next established for such farm shall be reduced as provided in the Cigar-Filler Tobacco, Cigar-Binder Tobacco, and Cigar-Filler and Binder Tobacco Marketing Quota Regulations for Determining Acreage Allotments and Normal Yields, 1959-60 Marketing Year.

(b) *Report on marketing card.* The operator of each farm on which tobacco is produced in 1958 shall return to the ASC county office such marketing card issued for the farm whenever marketings from the farm are completed and in no event later than June 1, 1959. Failure to return the marketing card within fifteen (15) days after written request by certified mail from the county office manager shall constitute failure to account for disposition of tobacco marketed from the farm unless disposition of all tobacco marketed from the farm is accounted for as provided in paragraph (e) of this section. The county office manager or the State administrative officer who issued the marketing card may reissue the same marketing card or issue a new marketing card for any farm from which the marketing of tobacco has not been completed by June 1, 1959.

(c) *Reports by producer-manufacturers.* (1) Each producer who manufactures tobacco products from tobacco produced by or for him as a producer shall report to the ASC State office as follows with respect to such tobacco.

(i) If the 1958 harvested acreage is not in excess of the 1958 farm tobacco acreage allotment, the producer-manufacturer shall furnish the ASC State office a report, as soon as the tobacco has been weighed, and not later than the date specified in writing by the State administrative officer, showing the total pounds of tobacco produced, the date(s) on which such tobacco was weighed, the farm serial number of the farm on which it was produced, and the estimated value of such tobacco.

(ii) If the 1958 harvested acreage is in excess of the 1958 farm acreage allotment, the producer-manufacturer shall furnish the ASC State office a report, as soon as the tobacco has been weighed, and not later than the date specified in writing by the State administrative officer, showing the total pounds of tobacco produced on the farm, the date(s) on which the tobacco was weighed, the farm serial number of the farm on which it was produced, the estimated value of the tobacco, and the location of the tobacco. Unless it has become penalty free under circumstances described in § 723.944 (b), or unless he makes the reports outlined in this section, penalty shall be paid on the tobacco by the producer-manufacturer, at the converted rate of penalty shown on the marketing card issued for the farm, when

it is moved from the place where it can be conveniently inspected by the county committee at any time separate and apart from any other tobacco.

(2) If the producer-manufacturer has excess tobacco and does not pay the penalty thereon at the converted rate of penalty shown on the marketing card, as provided in this section, he shall notify the buyer of the manufactured product, or the buyer of any residue resulting from processing the tobacco, in writing, at time of sale of such product or residue of the precise amount of penalty due on such manufactured product or residue. In such event, the producer-manufacturer shall immediately notify the Director and shall account for the disposition of such tobacco by furnishing the Director a report, on a form to be furnished him by the Director, showing the name and address of the buyer of the manufactured products or residue, a detailed account of the disposition of such tobacco and the exact amounts of penalty due with respect to each such sale of such products or residue, together with copies of the written notice of the exact amounts of the penalty due given to the buyers of such products or residue. Failure to file such report, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer-manufacturer to account for the production and disposition of tobacco produced on his farm and in the event of such failure the allotment next established for such farm shall be reduced as provided in the Cigar-Filler Tobacco, Cigar-Binder Tobacco, and Cigar-Filler and Binder Tobacco Marketing Quota Regulations for Determining Acreage Allotments and Normal Yields, 1959-60 Marketing Year, and the producer-manufacturer shall be liable for the payment of penalty as provided in § 723.949 (d).

(3) The reports required by this paragraph shall be in addition to the reports required by paragraph (a) of this section with respect to tobacco produced by or for the producer-manufacturer but not used by him in the manufacture of products therefrom.

(d) *False identification.* If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotment next established for both such farms and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if the county and State committees determine that no person connected with such farm caused, aided or acquiesced in such marketing, as provided in the applicable tobacco marketing quota regulations for determining acreage allotments and normal yields, 1959-60 marketing year.

(e) *Report of production and disposition.* In addition to any other reports which may be required under §§ 723.930 to 723.962, the operator of each farm or any other person having an interest in the tobacco grown on the farm (even though the harvested acreage does not exceed the acreage allotment or even

though no allotment was established for the farm) shall upon written request by certified mail from the State administrative officer within fifteen days after the deposit of such request in the United States mails, addressed to such person at his last known address, furnish the Secretary on Form MQ-108—Tobacco a written report of the acreage, production and disposition made of all tobacco produced on the farm by sending the same to the ASC State office showing, as to the farm at the time of filing said report,

(1) The number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm,

(2) The total pounds of tobacco produced,

(3) The amount of tobacco on hand and its location, and

(4) As to each lot of tobacco marketed, the name and address of the buyer or other persons to or through whom such tobacco was marketed and the number of pounds marketed, the gross price, and the date of the marketing. Failure to file the report as requested, or the filing of a report which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm shall be reduced as provided in the Cigar-Filler Tobacco, Cigar-Binder Tobacco, and Cigar-Filler and Binder Tobacco Marketing Quota Regulations for Determining Acreage Allotments and Normal Yields, 1959-60 Marketing Year.

§ 723.953 *Buyer's records.*—(a) *Record of marketing.* (1) Each buyer shall keep such records as will enable him to furnish the ASC State office with respect to each sale of tobacco made by producers to such buyer the following information:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the seller and the seller's address in the case of a sale by a person other than the farm operator.

(ii) Date of sale.

(iii) The serial number of the memorandum of sale used to identify the sale.

(iv) Number of pounds sold.

(v) Gross sale price.

(vi) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer(s).

(2) Any buyer or any other person who grades tobacco for farmers shall maintain records which will enable him to furnish the ASC State office the name of the farm operator and the amount of each grade of tobacco obtained from the grading of tobacco from each farm.

(b) *Identification of sale on buyer's records.* The serial number of the memorandum of sale issued to identify each sale by a producer shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco. The serial number of such memorandum shall also be entered on the buyer's copy of the receipt furnished the producer by the buyer, or the buyer's copy of the contract to purchase, or on the document customarily used in re-

cording the purchase, and on MQ-95—Tobacco.

(c) *Marketing card and memorandum of sale.* A valid memorandum of sale to cover each sale of tobacco by a producer shall be properly issued by the buyer. The buyer shall also properly record the sale on the marketing card.

(d) *Records of buyer's disposition of tobacco.* Each buyer shall maintain records which will show the disposition made by him of all tobacco purchased by or for him from producers.

(e) *Additional records and reports by buyers.* Each buyer shall keep such records and furnish such reports to the ASC State office, in addition to the foregoing, as the State administrative officer may find necessary to insure the proper identification of the marketings of tobacco and the collection of penalties due thereon as provided in §§ 723.930 to 723.962.

§ 723.954 *Buyer's reports.*—(a) *Report of buyer's name, address, and registration number.* Each buyer shall properly execute, detach and promptly forward to the ASC State office "Receipt for Buyer's Record" contained in MQ-95—Tobacco which is issued to the buyer.

(b) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ-95—Tobacco, Buyer's Record, showing all purchases of tobacco made by or for him from producers. Such record and report shall show for each sale, the sale date, the name of the farm operator (and the name and address of the person selling the tobacco if other than the farm operator), the serial number of the memorandum of sale issued with respect to the sale, the pounds of tobacco represented in the sale, the gross amount; the rate of penalty shown on the memorandum of sale, and the amount of the penalty. If no marketing card is presented by the producer, the buyer shall record and report the purchase as provided above except that the buyer shall enter the word "none" in the space for the serial number of the memorandum of sale, the applicable rate of penalty per pound shown in § 723.947 (b) in the space for rate of penalty, and shall show the name and address of the seller in the space for the seller's name.

(2) The original of MQ-95—Tobacco, the memoranda of sale, and a remittance for all penalties shown by the entries on MQ-95—Tobacco and on the memoranda of sale to be due shall be forwarded to the ASC State office not later than the 10th day of the calendar month next following the month during which the sale date occurred.

§ 723.955 *Buyers not exempt from regular records and reports.* No buyer shall be exempt from keeping the records and making the reports required by the regulations in this part. Any organization which received tobacco from producers for (a) the purpose of selling it for the producer, or (b) the purpose of placing it under a Federal loan, shall keep the records, make the reports, and remit penalties in case of receiving such tobacco for sale, as required in §§ 723.930 to 723.962 for buyers.

§ 723.956 Records and reports of truckers and persons sorting, stemming, packing, or otherwise processing tobacco.

(a) Each person engaged to any extent in the business of trucking or hauling tobacco for producers to a point where it may be marketed or otherwise disposed of in the form and in the condition in which it is usually marketed by producers shall keep such records as will enable him to furnish the ASC State office a report with respect to each lot of tobacco received by him showing:

(1) The name and address of the farm operator,

(2) The date of receipt of the tobacco,

(3) The number of pounds received, and

(4) The name and address of the person to whom it was delivered.

(b) Each person engaged to any extent in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall keep such records as will enable him to furnish the Director a report showing:

(1) The information required above for truckers, and in addition,

(2) The purpose for which the tobacco was received,

(3) The amount of advance made by him on the tobacco, and

(4) The disposition of the tobacco.

§ 723.957 Separate records and reports from persons engaged in more than one business. Any person who is required to keep any record or make any report as a buyer or as a person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers and who is engaged in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged to the same extent for each such business as if he were engaged in no other business.

§ 723.958 Failure to keep records or make reports or making false report or records—(1) Misdemeanor provisions. Any buyer, processor, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers, who fails to make any report or keep any record as required under §§ 723.930 to 723.962 or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco buyer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required under these regulations within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco buyer by mailing the same to him by registered mail or by posting the same at an established place of business operated by him, or both. Notice of any violation by a buyer or trucker shall be given by the State administrative officer and notice of violation by a person engaged in the

business of sorting, stemming, packing, or otherwise processing tobacco for producers shall be given by the Director.

(2) **Criminal law.** The penalties which may be imposed under subparagraph (1) of this paragraph are in addition to, and not exclusive of any other remedies or penalties under existing law, including the provisions of U. S. Code, Title 18, section 371 relating to acts of conspiracy and U. S. Code, Title 18, section 1001 relating to acts of fraud.

§ 723.959 Additional records and reports to Director. Any buyer, processor, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall, in addition to any records required to be kept or any reports required to be made, under §§ 723.930 to 723.962, keep such records and make such reports to the Director as he may find necessary to enforce §§ 723.930 to 723.962.

§ 723.960 Examination of records and reports. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report but not so furnished, any buyer, processor, trucker, or person engaged in the business of sorting, stemming, packing, or otherwise processing tobacco for producers shall make available for examination by employees of the ASC State office, and by employees of the Compliance and Investigation Division, Audit Division, and of the Tobacco Division of the Commodity Stabilization Service, United States Department of Agriculture, and upon written request by the State administrative officer or Director, such books, papers, records, accounts, correspondence, contracts, checks, check registers, check stubs, and documents and memoranda as the State administrative officer or Director has reason to believe are relevant and are within the control of such person.

§ 723.961 Length of time records and reports to be kept. Records required to be kept and copies of the reports required to be made by any person under §§ 723.930 to 723.962 for the 1958-59 marketing year shall be kept by him until September 30, 1961. Records shall be kept for such longer period of time as may be requested in writing by the State administrative officer or the Director.

§ 723.962 Information confidential. All data reported to or acquired by the Secretary pursuant to the provisions of §§ 723.930 to 723.962 shall be kept confidential by all officers and employees of the United States Department of Agriculture and by all members of county and community committees and all ASC county office employees, and only such data so reported or acquired as the Deputy Administrator deems relevant shall be disclosed by them and then only in a suit or administrative hearing under Title III of the act.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 3d day of July 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[P. R. Doc. 58-5232; Filed, July 8, 1958; 8:50 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Nectarine Order 7]

PART 937—NECTARINES GROWN IN CALIFORNIA

LIMITATION OF SHIPMENTS

§ 937.307 Nectarine Order 7—(a) Findings. (1) Pursuant to the marketing agreement and Order No. 37 (7 CFR Part 937; 23 F. R. 4616) regulating the handling of nectarines grown in the State of California, effective June 25, 1958, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Nectarine Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of nectarines of the varieties hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter specified. A reasonable determination as to the supply of and the demand for, such nectarines must await the development of the crop thereof, and adequate information thereon was not available to the Nectarine Administrative Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such nectarines. Interested persons were afforded an opportunity to submit information and views at this meeting; the specified herein were promptly submitted for regulation during the period recommendation and supporting information to the Department after such meeting was held; shipments of the current crop of such varieties of nectarines are expected to begin on or about the effective

date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such nectarines and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on June 28, 1958.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., July 11, 1958, and ending at 12:01 a. m., P. s. t., November 1, 1958, no handler shall handle any package or container of Freedom, Golden Grand, Marigold, Le Grand, Grandeur, Late Le Grand, or Gold King nectarines unless such nectarines grade at least U. S. No. 1; and,

(i) If the nectarines are packed in a No. 26 standard lug box, or in a No. 27 standard lug box, they are of a size that will pack, in accordance with the requirements of a standard pack, not more than 84 nectarines in the respective lug box; or

(ii) If the nectarines are packed in any container other than in a No. 26 standard lug box, or in a No. 27 standard lug box, ninety (90) percent, by count, of the nectarines measure not less than two and one-quarter (2¼) inches in diameter.

(2) When used herein, "U. S. No. 1," "diameter," and "standard pack" shall have the same meaning as set forth in the United States Standards for Nectarines (§§ 51.3145 to 51.3159 of this title; 23 F. R. 3994); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "No. 26 standard lug box," and "No. 27 standard lug box," respectively, shall have the same meaning as set forth in section 828.4 of the Agricultural Code of California, and all other terms shall have the same meaning as when used in the marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 3, 1958.

[SEAL] FLOYD F. HEDLUND,
Deputy Director, Fruit and
Vegetable Division, Agricultural
Marketing Service.

[F. R. Doc. 58-5210; Filed, July 8, 1958;
8:47 a. m.]

[Nectarine Order 8]

PART 937—NECTARINES GROWN IN CALIFORNIA

LIMITATION OF SHIPMENTS

§ 937.308 *Nectarine Order 8—(a) Findings.* (1) Pursuant to the marketing agreement and Order No. 37 (7 CFR Part 937; 23 F. R. 4616) regulating the handling of nectarines grown in the State of California, effective June 25, 1958, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601

et seq.), and upon the basis of the recommendations of the Nectarine Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of nectarines of the varieties hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication (hereof in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such nectarines must await the development of the crop thereof, and adequate information thereon was not available to the Nectarine Administrative Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such nectarines. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such varieties of nectarines are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such nectarines and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on June 28, 1958.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., July 11, 1958, and ending at 12:01 a. m., P. s. t., November 1, 1958, no handler shall handle any package or container of any variety of nectarines not identified in §§ 937.301 through 937.307, inclusive (Nectarine Orders 1, 2, 3, 4, 5, 6, and 7), unless such nectarines grade at least U. S. No. 1.

(2) When used herein, "U. S. No. 1," "diameter," and "standard pack" shall have the same meaning as set forth in the United States Standards for Nectarines (§§ 51.3145 to 51.3159 of this title;

23 F. R. 3994); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "No. 26 standard lug box," and "No. 27 standard lug box," respectively, shall have the same meaning as set forth in section 828.4 of the Agricultural Code of California, and all other terms shall have the same meaning as when used in the marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 3, 1958.

[SEAL] FLOYD F. HEDLUND,
Deputy Director, Fruit and
Vegetable Division, Agricultural
Marketing Service.

[F. R. Doc. 58-5211; Filed, July 8, 1958;
8:47 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter C—Drugs

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 141c, 146a, 146c, 146e; 22 CFR, 1957 Supp., 146a.53, 146c.207, 146c.211, 146c.217, 146e.402) are amended as indicated below:

1. Part 141c is amended by adding the following new section:

§ 141c.242 *Tetracycline-neomycin complex powder topical—(a) Potency—(1) Tetracycline content.* Proceed as directed in § 141c.230 (a) (2), except use water in lieu of 0.1 N HCl for dissolving the sample. Its tetracycline content is satisfactory if it contains not less than 85 percent of the equivalent number of milligrams of tetracycline hydrochloride that it is represented to contain.

(2) *Neomycin content.* Using 0.1 M potassium phosphate buffer, pH 8.0, dilute an appropriate aliquot of the aqueous solution, prepared as directed in subparagraph (1) of this paragraph, to a final concentration of 1 µg. per milliliter (estimated), and proceed as directed in § 141c.231 (c) (1), except that the neomycin standard stock solution de-

scribed in § 141e.410 (b) (1) (iii) of this chapter, is used to prepare the standard curve, by further diluting with pH 8.0 buffer to final concentrations of 0.64, 0.80, 1.0, 1.25, and 1.56 µg. per milliliter. The 1.0 µg. per milliliter solution is the reference concentration. In lieu of the method described in this subparagraph, the neomycin content may also be determined as follows: Using the aqueous solution described, prepare the sample and proceed as directed in § 141e.410 (b) (1) of this chapter, except use *M. pyogenes* var. *aureus* (American Type Culture Collection 12715) as the test organism, which is grown and maintained on agar containing 100 µg. of tetracycline hydrochloride per milliliter of agar. Its neomycin content is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(b) *Sterility*. Thoroughly cleanse the valve of each container to be tested with a suitable disinfectant. Carefully spray approximately 40 milligrams into each tube and proceed as directed in § 141a.2 of this chapter, except that neither penicillinase nor the control tube is used.

(c) *Moisture*. Proceed as directed in § 141b.117 (c) of this chapter.

(d) *Tetracycline-neomycin complex used in making the drug*—(1) *Potency*—(i) *Tetracycline content*. Dissolve the sample to be tested in sufficient water to give a convenient stock solution. Using an appropriate aliquot, proceed as directed in § 141c.218 (a).

(ii) *Neomycin content*. Using an aliquot of the stock solution prepared as directed in subdivision (1) of this subparagraph, proceed as directed in paragraph (a) (2) of this section, except the last sentence of that subparagraph.

(2) *Toxicity*. Proceed as directed in § 141a.4 of this chapter using 0.5 milliliter of a solution prepared by diluting the sample with physiological sodium chloride solution to contain 200 µg. of neomycin per milliliter (estimated).

(3) *pH*. Using a 1-percent aqueous solution, proceed as directed in § 141a.5 (b) of this chapter.

2. In § 146a.53 *Capsules penicillin and novobiocin*, paragraph (b) *Packaging; labeling* * * * is amended by changing the period at the end of subparagraph (1) to a comma and adding the following clause: "except that if the person who requests certification has submitted to the Commissioner results of tests and assays that show such drug as prepared by him is stable for 24 months, such date may be used for such drug."

3. In § 146c.207 *Chlortetracycline hydrochloride tablets* * * *, paragraph (a) is amended by changing the comma after the word "percent" to a period and deleting the remaining words in the paragraph.

4. Section 146c.211 (c) (1) (iii) is changed to read as follows:

(c) *Labeling*. * * *

(1) * * *

(iii) The statement "Expiration date _____," the blank being filled in with the date that is 60 months after the month during which the batch was certified if it is chlortetracycline hydrochloride surgical powder, or with the

date that is 24 months after the month during which the batch was certified if it is tetracycline hydrochloride surgical powder, except that if the person who requests certification has submitted to the Commissioner results of tests and assays that show such drug as prepared by him is stable for 36 months or 48 months, such date may be used for such drug: *Provided, however*, That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container.

5. Section 146c.217 (c) (1) (v) is changed to read as follows:

(c) *Labeling*. * * *

(1) * * *

(v) The statement "Expiration date _____," the blank being filled in with the date which is 12 months after the month during which the batch was certified, except that the blank may be filled in with the date that is 18 months, 24 months, 36 months, or 48 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section: *Provided, however*, That such expiration date may be omitted from the immediate container if such immediate container is packaged in an individual wrapper or container.

6. Part 146c is amended by adding the following new section:

§ 146c.242 *Tetracycline-neomycin complex powder topical*—(a) *Standards of identity, strength, quality, and purity*. Tetracycline-neomycin complex powder topical is tetracycline-neomycin complex with one or more suitable and harmless diluents and suspending agents. It is sterile. The moisture content is not more than 7.5 percent. The water-soluble, acetone-insoluble tetracycline-neomycin complex used contains the equivalent of 400 milligrams of tetracycline hydrochloride and 400 milligrams of neomycin base per gram, is nontoxic, has a moisture content of not more than 7.5 percent and its pH in a 1 percent aqueous solution is not less than 7.5 and not more than 9.0. Each other substance used, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging; labeling; request for certification; samples; fees*. (1) In addition to complying with the requirements of § 146c.230 (b) and (c), each package shall bear on its label and labeling the number of milligrams of neomycin per gram or per immediate container. The expiration date of the drug shall be 12 months.

(2) In addition to complying with § 146c.230 (d), a person who requests certification of a batch shall submit with his request a statement showing the batch mark and (unless previously submitted) the results and the date of the latest tests and assays of the tetracycline-neomycin complex used in making the batch for potency, toxicity, moisture,

and pH. He shall also submit in connection with his request a sample consisting of 10 immediate containers of the batch for sterility testing. He shall also submit in connection with his request (unless previously submitted) a sample consisting of 10 packages each containing not less than 60 milligrams of the tetracycline-neomycin complex used in making the batch.

(3) The fees for the services rendered with respect to the samples submitted in accordance with the requirements of this section shall be:

(i) \$10.00 for all immediate containers submitted for sterility testing.

(ii) \$5.00 for each immediate container of the batch.

(iii) \$5.00 for each immediate container of tetracycline-neomycin complex used in making the batch.

7. Section 146e.402 *Bacitracin ointment* * * * is amended as follows:

a. Paragraph (c) *Labeling* is amended by inserting in subparagraph (1) (iv) after the word "certified," the following new words: "except that the blank may be filled in with the date that is 48 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section:"

b. Paragraph (f) *Exemption of bacitracin ointment from certification* is amended by changing the words "36 months" in subparagraph (1) to read "48 months".

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would not be in the public interest to delay providing for the amendments set out herein.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find. (Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interpret or apply sec. 507, 52 Stat. 463, as amended; 21 U. S. C. 357)

Dated: July 1, 1958.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 58-5206; Filed, July 8, 1958; 8:47 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6301]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

EXEMPT ORGANIZATIONS

On January 21, 1956, notice of proposed rule making regarding the regulations

under sections 501 through 526 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (21 F. R. 460). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations set forth in paragraph 1 below are hereby adopted under sections 501 through 526, 6012 and 6033 of the Internal Revenue Code of 1954. However, this Treasury decision does not contain regulations under paragraphs (3) and (4) of section 501 (c). Regulations under such paragraphs will be the subject of a separate Treasury decision. Portions of the regulations in § 1.501 (a)-1 of the notice of proposed rule making are included in this document as regulations under sections 6012 and 6033. Paragraph (a) (3) of § 1.6033-1 was previously published as a part of T. D. 6203 (21 F. R. 7269) and is reprinted in this document merely for convenient reference. Section 1.401-1 (e) (26 CFR 1.401-1 (e)) is hereby amended as set forth in paragraph 2 below. The regulations contained in this Treasury decision are applicable for taxable years beginning after December 31, 1953, and ending after August 16, 1954, except as otherwise expressly provided.

PARAGRAPH 1. The following regulations are hereby adopted under sections 501 through 526, 6012, and 6033 of the Internal Revenue Code of 1954.

EXEMPT ORGANIZATIONS

GENERAL RULE

- Sec.
1.501 (a) Statutory provisions; exemption from tax on corporations, certain trusts, etc.
1.501 (a)-1 Exemption from taxation.
1.501 (b) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; tax on unrelated business income.
1.501 (c) (1) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; list of exempt organizations; instrumentalities of the United States.
1.501 (c) (2) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; corporations organized to hold title to property for exempt organizations.
1.501 (c) (2)-1 Corporations organized to hold title to property for exempt organizations.
1.501 (c) (3) [Reserved.]
1.501 (c) (4) [Reserved.]
1.501 (c) (5) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; labor, agricultural, and horticultural organizations.
1.501 (c) (5)-1 Labor, agricultural, and horticultural organizations.
1.501 (c) (6) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; business leagues, chambers of commerce, real estate boards and boards of trade.
1.501 (c) (6)-1 Business leagues, chambers of commerce, real estate boards, and boards of trade.
1.501 (c) (7) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; social clubs.
1.501 (c) (7)-1 Social clubs.
1.501 (c) (8) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; fraternal beneficiary societies.
1.501 (c) (8)-1 Fraternal beneficiary societies.

Sec.

- 1.501 (c) (9) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; voluntary employees' beneficiary associations.
1.501 (c) (10) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; voluntary employees' beneficiary associations.
1.501 (c) (11) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; teachers' retirement fund associations.
1.501 (c) (12) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; local benevolent life insurance associations, mutual irrigation and telephone companies, and like organizations.
1.501 (c) (12)-1 Local benevolent life insurance associations, mutual irrigation and telephone companies, and like organizations.
1.501 (c) (13) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; cemetery companies.
1.501 (c) (13)-1 Cemetery companies.
1.501 (c) (14) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; credit unions.
1.501 (c) (14)-1 Credit unions and mutual insurance funds.
1.501 (c) (15) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; mutual insurance organizations other than life or marine.
1.501 (c) (15)-1 Mutual insurance companies or associations.
1.501 (c) (16) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; corporations organized to finance crop operations.
1.501 (c) (16)-1 Corporations organized to finance crop operations.
1.501 (d) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; religious and apostolic organizations.
1.501 (d)-1 Religious and apostolic associations or corporations.
1.501 (e) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; cross reference.
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AUTHORITY: §§ 1.501 (a) to 1.6033-1 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

EXEMPT ORGANIZATIONS

GENERAL RULE

§ 1.501 (a) Statutory provisions; exemption from tax on corporations, certain trusts, etc.

Sec. 501. Exemption from tax on corporations, certain trusts, etc.—(a) Exemption from taxation. An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, 503, or 504.

§ 1.501 (a)-1 Exemption from taxation—(a) In general; proof of exemption. (1) Section 501 (a) provides an exemption from income taxes for organizations which are described in section 501 (c) or (d) and section 401 (a), unless such organization is a "feeder organization" (see section 502), or unless it engages in a transaction described in section 503 or in an activity described in section 504. However, the exemption does not extend to "unrelated business taxable income" of such an organization (see sections 511 to 515).

(2) An organization, other than an employees' trust described in section 401 (a), is not exempt from tax merely because it is not organized and operated for profit. In order to establish its exemption, it is necessary that every such organization claiming exemption file an application form as set forth below with the district director of internal revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. However, an organization which has been granted exemption under the provisions of the Internal Revenue Code of 1939 or prior law may rely on that ruling, unless affected by substantive changes in the 1954 Code or any changes in the character, purposes, or methods of operation of the organization, and it is not necessary in such case for the organization to request a new determination as to its exempt status.

(3) (i) An organization claiming exemption under section 501 (a) and described in section 501 (c) (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), or (15) shall file the form of application appropriate to its activities, filled out in accordance with the instructions on the form or issued therewith. The following forms shall be filed: For organizations described in section 501 (c) (3), Form 1023; in section 501 (c) (4), (5), (6), or (8), Form 1024; in section 501 (c) (7), Form 1025; and in section 501 (c) (2), (9), (12), (13), or (15), Form 1026. State chartered credit unions described in section 501 (c) (14) shall submit an application for exemption showing the State and date of incorporation. The application should show that the State credit union law with respect to loans, investments, and dividends, if any, is being complied with. All other organizations claiming exemption, other than employees' trusts described in section 401 (a), shall file an application for exemption showing the character of the organization, the purpose for which it was organized, its actual activities, the sources of its income and receipts and the disposition thereof, whether or not

any of its income or receipts is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which affect its right to exemption. To each such form or application shall be attached a conformed copy of the articles of incorporation, declaration of trust, or other instrument of similar import, setting forth the permitted powers or activities of the organization, the by-laws or other code of regulations, and the latest financial statement showing the assets, liabilities, receipts, and disbursements of the organization. Each such form or application shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(ii) For the rules relating to obtaining a determination of exempt status by an employees' trust described in section 401 (a), see paragraph (e) of § 1.401-1.

(b) **Additional proof by particular classes of organizations.** (1) Organizations mentioned below shall submit with and as a part of their applications the following information:

(i) Mutual insurance companies shall submit copies of the policies or certificates of membership issued by them.

(ii) In the case of title holding companies described in section 501 (c) (2), if the organization for which title is held has not been specifically notified in writing by the Internal Revenue Service that it is held to be exempt under section 501 (a), the title holding company shall submit the information indicated herein as necessary for a determination of the status of the organization for which title is held.

(2) In addition to the information specifically called for by this section, the Commissioner may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under section 501 (a), and when deemed advisable in the interest of an efficient administration of the internal revenue laws, he may in the cases of particular types of organizations prescribe the form in which the proof of exemption shall be furnished.

(3) An organization claiming to be specifically exempted by section 6033 (a) from filing annual returns shall submit with and as a part of its application a statement of all the facts on which it bases its claim.

(c) **"Private shareholder or individual" defined.** The words "private shareholder or individual" in section 501 refer to persons having a personal and private interest in the activities of the organization.

(d) **Requirement of annual returns.** For the annual return requirements of organizations exempt under section 501 (a), see section 6033 and § 1.6033-1.

§ 1.501 (b) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; tax on unrelated business income.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(b) **Tax on unrelated business income.** An organization exempt from taxation under subsection (a) shall be subject to tax to the

extent provided in part II of this subchapter (relating to tax on unrelated income), but, notwithstanding part II, shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

§ 1.501 (c) (1) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; list of exempt organizations; instrumentalities of the United States.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) **List of exempt organizations.** The following organizations are referred to in subsection (a):

(1) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes.

§ 1.501 (c) (2) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; corporations organized to hold title to property for exempt organizations.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) **List of exempt organizations.** The following organizations are referred to in subsection (a):

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

§ 1.501 (c) (2)-1 Corporations organized to hold title to property for exempt organizations. (a) A corporation described in section 501 (c) (2) and otherwise exempt from tax under section 501 (a) is taxable upon its unrelated business taxable income if the income is payable to an organization which is itself subject to the tax imposed by section 511 or if the income is payable to a church or to a convention or association of churches. See sections 511 to 515, inclusive, and the regulations thereunder. Since a corporation described in section 501 (c) (2) cannot be exempt under section 501 (a) if it engages in any business other than that of holding title to property and collecting income therefrom, it cannot have unrelated business taxable income as defined in section 512 other than unrelated business rental income described in section 514.

(b) A corporation described in section 501 (c) (2) cannot accumulate income and retain its exemption, but it must turn over the entire amount of such income, less expenses, to an organization which is itself exempt from tax under section 501 (a).

§ 1.501 (c) (3) [Reserved.]

§ 1.501 (c) (4) [Reserved.]

§ 1.501 (c) (5) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; labor, agricultural, and horticultural organizations.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) **List of exempt organizations.** The following organizations are referred to in subsection (a):

(5) Labor, agricultural, or horticultural organizations.

§ 1501 (c) (5)-1 *Labor, agricultural, and horticultural organizations.* (a) The organizations contemplated by section 501 (c) (5) as entitled to exemption from income taxation are those which:

- (1) Have no net earnings inuring to the benefit of any member, and
- (2) Have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

(b) Organizations described in section 501 (c) (5) and otherwise exempt from tax under section 501 (a) are taxable upon their unrelated business taxable income. See sections 511 to 515, inclusive, and the regulations thereunder.

§ 1501 (c) (6) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; business leagues, chambers of commerce, real estate boards and boards of trade.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(6) Business leagues, chambers of commerce, real-estate boards, or boards of trade not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

§ 1501 (c) (6)-1 *Business leagues, chambers of commerce, real estate boards, and boards of trade.* A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. An association engaged in furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. A stock or commodity exchange is not a business league, a chamber of commerce, or a board of trade within the meaning of section 501 (c) (6) and is not exempt from tax. Organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income. See sections 511 to 515, inclusive, and the regulations thereunder.

§ 1501 (c) (7) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; social clubs.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(7) Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

§ 1501 (c) (7)-1 *Social Clubs.* (a) The exemption provided by section 501 (a) for organizations described in section 501 (c) (7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501 (a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption.

§ 1501 (c) (8) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; fraternal beneficiary societies.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(8) Fraternal beneficiary societies, orders, or associations—

(A) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) Providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

§ 1501 (c) (8)-1 *Fraternal beneficiary societies.* (a) A fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

(b) To be exempt a fraternal beneficiary society must be operated in furtherance of its fraternal purposes and

may not engage in business activities of a kind carried on for profit, except that the carrying on of activities which raise revenues from members and their guests will not deprive the society of its exemption.

§ 1501 (c) (9) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; voluntary employees' beneficiary associations.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if—

(A) No part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and

(B) 85 percent or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses.

§ 1501 (c) (10) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; voluntary employees' beneficiary associations.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(10) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if—

(A) Admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and

(B) No part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

§ 1501 (c) (11) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; teachers' retirement fund associations.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(11) Teachers' retirement funds associations of a purely local character, if—

(A) No part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) The income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

§ 1501 (c) (12) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; local benevolent life insurance associations, mutual irrigation and telephone companies and like organizations.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a): * * *

(12) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

§ 1.501 (c) (12)-1 Local benevolent life insurance associations, mutual irrigation and telephone companies, and like organizations. (a) An organization described in section 501 (c) (12) must receive at least 85 percent of its income from amounts collected from members for the sole purpose of meeting losses and expenses. If an organization issues policies for stipulated cash premiums, or if it requires advance deposits to cover the cost of the insurance and maintains investments from which more than 15 percent of its income is derived, it is not entitled to exemption. On the other hand, an organization may be entitled to exemption, although it makes advance assessments for the sole purpose of meeting future losses and expenses, provided that the balance of such assessments remaining on hand at the end of the year is retained to meet losses and expenses or is returned to members.

(b) The phrase "of a purely local character" applies to benevolent life insurance associations, and not to the other organizations specified in section 501 (c) (12). It also applies to any organization seeking exemption on the ground that it is an organization similar to a benevolent life insurance association. An organization of a purely local character is one whose business activities are confined to a particular community, place, or district, irrespective, however, of political subdivisions. If the activities of an organization are limited only by the borders of a State it cannot be considered to be purely local in character.

§ 1.501 (c) (13) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; cemetery companies.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) List of exempt organizations. The following organizations are referred to in subsection (a): * * *

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

§ 1.501 (c) (13)-1 Cemetery companies. (a) A cemetery company may be entitled to exemption—

(1) If it is owned by and operated exclusively for the benefit of its lot owners who hold such lots for bona fide burial purposes and not for purpose of resale, or

(2) If it is not operated for profit.

(b) Any cemetery corporation chartered solely for burial purposes and not permitted by its charter to engage in any business not necessarily incident to that purpose is exempt from income tax, provided that no part of its net earnings

inures to the benefit of any private shareholder or individual. A cemetery company which fulfills the other requirements of section 501 (c) (13) may be exempt, even though it issues preferred stock entitling the holders to dividends at a fixed rate, not exceeding the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, provided that its articles of incorporation require:

(1) That the preferred stock shall be retired at par as soon as sufficient funds available therefor are realized from sales, and

(2) That all funds not required for the payment of dividends upon or for the retirement of preferred stock shall be used by the company for the care and improvement of the cemetery property.

§ 1.501 (c) (14) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; credit unions.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) List of exempt organizations. The following organizations are referred to in subsection (a): * * *

(14) Credit unions without capital stock organized and operated for mutual purposes and without profit; and corporations or associations without capital stock organized before September 1, 1951, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

(A) Domestic building and loan associations.

(B) Cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

(C) Mutual savings banks not having capital stock represented by shares.

§ 1.501 (c) (14)-1 Credit unions and mutual insurance funds. Credit unions (other than Federal credit unions described in section 501 (c) (1)) without capital stock, organized and operated for mutual purposes and without profit, are exempt from tax under section 501 (a). Corporations or associations without capital stock organized before September 1, 1951, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in:

(a) Domestic building and loan associations as defined in section 7701 (a) (19).

(b) Cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

(c) Mutual savings banks not having capital stock represented by shares,

are also exempt from tax under section 501 (a).

§ 1.501 (c) (15) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; mutual insurance organizations other than life or marine.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) List of exempt organizations. The following organizations are referred to in subsection (a): * * *

(15) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the gross amount received during the taxable

year from the items described in section 822 (b) (other than paragraph (1) (D) thereof) and premiums (including deposits and assessments) does not exceed \$75,000.

[Sec. 501 (c) (15) as amended by the Life Insurance Company Tax Act for 1955]

§ 1.501 (c) (15)-1 Mutual insurance companies or associations—(a) Taxable years beginning after December 31, 1954. An insurance company or association described in section 501 (c) (15) is exempt under section 501 (a) if it is a mutual company or association (other than life or marine) or if it is a mutual interinsurer or reciprocal underwriter (other than life or marine) and if the gross amount received during the taxable year from the sum of the following items does not exceed \$75,000:

(1) Interest, dividends, rents, and royalties,

(2) The entering into of any lease, mortgage, or other instrument or agreement from which the insurance company derives interest, rents, or royalties,

(3) The alteration or termination of any instrument or agreement described in subparagraph (2) of this paragraph, and

(4) Premiums (including deposits and assessments).

(b) **Taxable years beginning after December 31, 1953, and before January 1, 1955.** An insurance company or association described in section 501 (c) (15) is exempt under section 501 (a) if it is a mutual company or association (other than life or marine) or if it is a mutual interinsurer or reciprocal underwriter (other than life or marine) and if the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) does not exceed \$75,000.

§ 1.501 (c) (16) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; corporations organized to finance crop operations.

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(c) List of exempt organizations. The following organizations are referred to in subsection (a): * * *

(16) Corporations organized by an association subject to part III of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

§ 1.501 (c) (16)-1 Corporations organized to finance crop operations. A corporation organized by a farmers' cooperative marketing or purchasing association, or the members thereof, for the

purpose of financing the ordinary crop operations of such members or other producers is exempt, provided the marketing or purchasing association is exempt under section 521 and the financing corporation is operated in conjunction with the marketing or purchasing association. The provisions of § 1.521-1 relating to a reserve or surplus and to capital stock shall also apply to corporations coming under this section.

§ 1.501 (d) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; religious and apostolic organizations.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(d) *Religious and apostolic organizations.* The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

§ 1.501 (d)-1 *Religious and apostolic associations or corporations.* (a) Religious or apostolic associations or corporations are described in section 501 (d) and are exempt from taxation under section 501 (a) if they have a common treasury or community treasury, even though they engage in business for the common benefit of the members, provided each of the members includes (at the time of filing his return) in his gross income his entire pro rata share, whether distributed or not, of the net income of the association or corporation for the taxable year of the association or corporation ending with or during his taxable year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(b) For annual return requirements of organizations described in section 501 (d), see section 6033 and paragraph (a) (5) of § 1.6033-1.

§ 1.501 (e) *Statutory provisions; exemption from tax on corporations, certain trusts, etc.; cross reference.*

Sec. 501. Exemption from tax on corporations, certain trusts, etc. * * *

(e) *Cross reference.* For nonexemption of Communist-controlled organizations, see section 11 (b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U. S. C. 790 (b)).

§ 1.501 (e)-1 *Communist-controlled organizations.* Under section 11 (b) of the Internal Security Act of 1950, as amended, which is made applicable to the Internal Revenue Code of 1954 by section 7852 (b) of that Code, no organization is entitled to exemption under sections 501 (a) or 521 (a) for any taxable year if at any time during such year such organization is registered under section 7 of such Act or if there is in effect a final order of the Subversive Activities Control Board established by section 12 of such Act requiring such organization to register under section 7

of such Act, or determining that it is a Communist-infiltrated organization.

§ 1.502 *Statutory provisions; feeder organizations.*

Sec. 502. *Feeder organizations.* An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under section 501 on the ground that all of its profits are payable to one or more organizations exempt under section 501 from taxation. For purposes of this section, the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

§ 1.502-1 *Feeder organizations.* (a) In the case of an organization operated for the primary purpose of carrying on a trade or business for profit, exemption is not allowed under section 501 on the ground that all the profits of such organization are payable to one or more organizations exempt from taxation under section 501. For the purpose of this rule, the term "trade or business" does not include the rental by an organization of its real property (including personal property leased with the real property). In determining the primary purpose of an organization, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of those activities of such organization which are specified in the applicable paragraph of section 501.

(b) If a subsidiary organization of a tax-exempt organization would itself be exempt on the ground that its activities are an integral part of the exempt activities of the parent organization, its exemption will not be lost because, as a matter of accounting between the two organizations, the subsidiary derives a profit from its dealings with its parent organization, for example, a subsidiary organization which is operated for the sole purpose of furnishing electric power used by its parent organization, a tax-exempt educational organization, in carrying on its educational activities. However, the subsidiary organization is not exempt from tax if it is operated for the primary purpose of carrying on a trade or business which would be an unrelated trade or business (that is, unrelated to exempt activities) if regularly carried on by the parent organization. For example, if a subsidiary organization is operated primarily for the purpose of furnishing electric power to consumers other than its parent organization (and the parent's tax-exempt subsidiary organizations), it is not exempt since such business would be an unrelated trade or business if regularly carried on by the parent organization. Similarly, if the subsidiary is owned by several unrelated exempt organizations, and is operated for the purpose of furnishing electric power to each of them, it is not exempt since such business would be an unrelated trade or business if regularly carried on by any one of the tax-exempt organizations.

(c) In certain cases an organization which carries on a trade or business for profit but is not operated for the primary purpose of carrying on such trade or business is subject to the tax imposed

under section 511 on its unrelated business taxable income.

§ 1.503 (a) *Statutory provisions; requirements for exemption; denial of exemption to organizations engaged in prohibited transactions.*

Sec. 503. *Requirements for exemption—* (a) *Denial of exemption to organizations engaged in prohibited transactions—* (1) *General rule.* An organization described in section 501 (c) (3) which is subject to the provisions of this section shall not be exempt from taxation under section 501 (a) if it has engaged in a prohibited transaction after July 1, 1950; and an organization described in section 401 (a) which is subject to the provisions of this section shall not be exempt from taxation under section 501 (a) if it has engaged in a prohibited transaction after March 1, 1954.

(2) *Taxable years affected.* An organization described in section 501 (c) (3) or section 401 (a) shall be denied exemption from taxation under section 501 (a) by reason of paragraph (1) only for taxable years after the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

§ 1.503 (a)-1 *Denial of exemption to organizations engaged in prohibited transactions.* (a) The prohibited transactions enumerated in section 503 (c) are in addition to and not in limitation of the restrictions contained in section 501 (c) (3) and section 401 (a). Even though an organization has not engaged in any of the prohibited transactions referred to in section 503 (c), it still may not qualify for tax exemption in view of the general provisions of section 501 (c) (3) and section 401 (a). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator of such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purposes.

(b) An organization described in section 501 (c) (3) which after July 1, 1950, has engaged in any prohibited transaction as defined in section 503 (c), unless it is excepted by the provisions of section 503 (b), and an organization described in section 401 (a) which after March 1, 1954, has engaged in any such prohibited transaction shall not be exempt from taxation under section 501 (a) for any taxable year subsequent to the taxable year in which there is mailed to it a notice in writing by the Commissioner that it has engaged in such prohibited transaction. Such notification by the Commissioner shall be by registered or certified mail to the last known address of the organization. However, notwithstanding the requirement of notification by the Commissioner, exemption shall be denied with respect to any taxable year if such organization during or prior to such taxable year commenced the prohibited transaction with the purpose of diverting income or corpus from its exempt purposes and such transaction involved a substantial part of the

income or corpus of such organization. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

(c) The application of section 503 (c) may be illustrated by the following examples:

Example (1). A creates a foundation in 1954 ostensibly for educational purposes. B, a trustee, accumulates the foundation's income from 1957 until 1959 and then uses a substantial part of this accumulated income to send A's children to college. The foundation would lose its exemption for the taxable years 1957 through 1959 and for subsequent taxable years until it regains its exempt status.

Example (2). If under the facts in example (1) such private benefit was the purpose of the foundation from its inception, such foundation is not exempt by reason of the general provisions of section 501 (c) (3), without regard to the provisions of section 503, for all years since its inception, that is, for the taxable years 1954 through 1959 and subsequent taxable years, since under section 501 (c) (3) the organization must be organized and operated exclusively for exempt purposes. See § 1.501 (c) (3)-1. See also § 1.504-1 for loss of exemption in the case of certain organizations accumulating income.

§ 1.503 (b) *Statutory provisions; requirements for exemption; organizations to which section applies.*

Sec. 503. Requirements for exemption. * * *

(b) Organizations to which section applies. This section shall apply to any organization described in section 501 (c) (3) or section 401 (a) except—

(1) A religious organization (other than a trust);

(2) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(3) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public;

(4) An organization which is operated, supervised, controlled, or principally supported by a religious organization (other than a trust) which is itself not subject to the provisions of this section; and

(5) An organization the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical research or agricultural research.

§ 1.503 (c) *Statutory provisions; requirements for exemption; prohibited transactions.*

Sec. 503. Requirements for exemption. * * *

(c) Prohibited transactions. For purposes of this section, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of this section—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) Makes any part of its services available on a preferential basis to;

(4) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(5) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or

(6) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in section 267 (c) (4)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

§ 1.503 (c)-1 *Prohibited transactions—(a) In general.* The term "prohibited transaction" means any transaction set forth in section 503 (c) engaged in by an organization described in section 501 (c) (3) or section 401 (a), other than those organizations excepted by section 503 (b). Whether a transaction is a prohibited transaction depends on the facts and circumstances of the particular case. This section is intended to deny tax-exempt status to those organizations described in sections 501 (c) (3) and 401 (a) which engage in certain transactions which inure to the private advantage of (1) the creator of such organization (if it is a trust); (2) any substantial contributor to the organization; (3) a member of the family (as defined in section 267 (c) (4)) of an individual who is such creator or of such substantial contributor to such organization; or (4) a corporation controlled, as set forth in section 503 (c), by such creator or substantial contributor.

(b) *Loans as prohibited transactions under section 503 (c) (1)—(1) Adequate security.* For the purposes of section 503 (c) (1), which treats as prohibited transactions certain loans by an organization without receipt of adequate security and a reasonable rate of interest, the term "adequate security" means something in addition to and supporting a promise to pay, which is so pledged to the organization that it may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, the value and liquidity of which security is such that it may reasonably be anticipated that loss of principal or interest will not result from the loan. Mortgages or liens on property, accommodation endorsements of those financially capable of meeting the indebtedness, and stock or securities issued by corporations other than the borrower may constitute security for a loan to the persons or organizations described in section 503 (c). Stock of a borrowing corporation does not constitute adequate security. A borrower's evidence of indebtedness,

irrespective of its name, is itself not security for a loan, whether or not it was issued directly to the exempt organization. However, if any such evidence of indebtedness provides for security that may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, there may be adequate security for such loan. If an organization subject to section 503 (c) purchases debentures issued by a person specified in section 503 (c), the purchase is considered, for purposes of section 503 (c) (1), as a loan made by the purchaser to the issuer on the date of such purchase. For example, if an exempt organization subject to section 503 (c) makes a purchase through a registered security exchange of debentures issued by a person described in section 503 (c), and owned by an unknown third party, the purchase will be considered as a loan to the issuer by the purchaser. For rules relating to loan of funds to, or investment of funds in stock or securities of, persons described in section 503 (c) by an organization described in section 401 (a), see paragraph (b) (5) of § 1.401-1.

(2) *Effective dates.* The effective dates for the application of the definition of adequate security in subparagraph (1) of this paragraph are:

(i) March 15, 1956, for loans (other than debentures) made after March 15, 1956;

(ii) January 31, 1957, for loans (other than debentures) made before March 16, 1956, and continued after January 31, 1957;

(iii) November 8, 1956, for debentures which were purchased after November 8, 1956;

(iv) March 15, 1959, or the ninetieth day after the date of enactment of legislation amending section 503 and relating to adequate security, whichever date is earlier, for debentures which were purchased before November 9, 1956, and held after such earlier date.

(v) If an employee's pension, stock bonus, or profit-sharing trust described in section 401 (a) made a loan before March 1, 1954, repayable by its terms after December 31, 1955, and which would constitute a prohibited transaction if made on or after March 1, 1954, the loan shall not constitute a prohibited transaction if held until maturity (determined without regard to any extension or renewal thereof).

(c) *Examples.* The following examples illustrate the operation of section 503 (c) (1):

Example (1). A, creator of an exempt trust subject to section 503, borrows \$100,000 from such trust in 1960, giving his unsecured promissory note. The net worth of A is \$1,000,000. The net worth of A is not "security" for such loan and the transaction is a prohibited transaction. If, however, the note is secured by a mortgage on property of sufficient value, or is accompanied by acceptable collateral of sufficient value, or carries with it the secondary promise of repayment by an accommodation endorser financially capable of meeting the indebtedness, it may be adequately secured. However, subordinated debenture bonds of a partnership which are guaranteed by the general partners are not adequately secured since the general partners are liable for the

firm's debt and their guaranty adds no additional security.

Example (2). Assume the same facts as in example (1) except that A's promissory note in the amount of \$100,000 to the trust is secured by property which has a fair market value of \$75,000. A's promissory note secured to the extent of \$75,000 is not adequately secured within the meaning of section 503 (c) (1) since the security at the time of the transaction must be sufficient to repay the indebtedness, interest, and charges which may pertain thereto.

Example (3). Corporation M, a substantial contributor to an exempt organization subject to section 503, borrows \$150,000 from such organization in 1960, giving its promissory note accompanied by stock of the borrowing corporation with a fair market value of \$200,000. Since promissory notes and debentures have priority over stock in the event of liquidation of the corporation, stock of a borrowing corporation may not be adequate security. Likewise, debenture bonds which are convertible on default into voting stock of the issuing corporation may not constitute "adequate security" under section 503 (c) (1).

Example (4). B, creator of an exempt trust subject to section 503, borrows \$100,000 from such trust in 1960, giving his secured promissory note at the rate of 3 percent interest. The prevailing rate of interest charged by financial institutions in the community where the transaction takes place is 5 percent for a loan of the same duration and similarly secured. The loan by the trust to the grantor is a prohibited transaction since section 503 (c) (1) requires both adequate security and a reasonable rate of interest. Further, a promise to repay the loan plus a percentage of future profits which may be greater than the prevailing rate of interest does not meet the reasonable rate of interest requirement.

Example (5). N Corporation, a substantial contributor to an exempt organization subject to section 503, borrows \$50,000 on or after March 16, 1956, from the organization. If the loan is not adequately secured, the organization has committed a prohibited transaction at the time the loan was made. If the loan had been made on or before March 15, 1956, and is continued after January 31, 1957, it must be adequately secured on February 1, 1957, or it will be considered a prohibited transaction on that date. However, if the exempt organization were an employees' trust, described in section 401 (a), and the loan were made before March 1, 1954, repayable by its terms after December 31, 1955, it would not have to be adequately secured on February 1, 1957.

Example (6). An exempt organization subject to section 503 purchases a debenture issued by O Corporation, which is a substantial contributor to the organization. The organization purchases the debenture in an arm's length transaction from a third person on or after November 9, 1956. The purchase is considered as a loan by the organization to O Corporation and the loan must be adequately secured when it is made, or it is considered as a prohibited transaction at that time. If the organization purchased the debenture on or before November 8, 1956, and holds it after the earlier of the dates set forth in paragraph (b) (2) (iv) of this section the debenture must be adequately secured on the day after such earlier date or it will be then considered as a prohibited transaction. However, if the organization were an employees' trust described in section 401 (a), and if the debenture were purchased before March 1, 1954, and its maturity date is after December 31, 1955, the debenture does not have to be adequately secured.

§ 1.503 (d) Statutory provisions; requirements for exemption; future status of organizations denied exemption.

SEC. 503. Requirements for exemption.

(d) **Future status of organizations denied exemption.** Any organization described in section 501 (c) (3) or section 401 (a) which is denied exemption under section 501 (a) by reason of subsection (a) of this section, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary or his delegate, file claim for exemption, and if the Secretary or his delegate, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

§ 1.503 (d)-1 Future status of organizations denied exemption. (a) Any organization described in section 501 (c) (3) or an employees' trust described in section 401 (a), which is denied exemption under section 501 (a) by reason of the provisions of section 503 (a), may file, in any taxable year following the taxable year in which notice of denial was issued, a claim for exemption. Form 1023, the exemption application, shall be used for this purpose in the case of an organization described in section 501 (c) (3), and shall be filed with the district director of internal revenue for the internal revenue district in which is located the principal place of business or principal office of the organization claiming exemption. In the case of an employees' trust described in section 401 (a), the information described in § 1.404 (a)-2 shall be submitted with a letter claiming exemption. An employees' trust described in section 401 (a) shall submit this information to the district director of internal revenue with whom a request for a determination as to its qualification under section 401 and exemption under section 501 may be submitted under paragraph (1) of § 601.201 of this chapter (Statement of Procedural Rules). A claim for exemption must contain or have attached to it, in addition to the information generally required of such an organization claiming exemption as an organization described in section 501 (c) (3) or 401 (a), a written declaration made under the penalties of perjury by a principal officer of such organization authorized to make such declaration that the organization will not knowingly again engage in a prohibited transaction. See § 1.501 (a)-1 for proof of exemption requirements in general.

(b) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction and that the organization also satisfies all other requirements under section 501 (c) (3) or section 401 (a), the organization will be so notified in writing. In such case the organization will be exempt (subject to the provisions of sections 501 (c) (3), 401 (a), 503, and 504) with respect to the taxable years subsequent to the taxable year in which the claim prescribed in section 503 (d) is filed. Section 503 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of

the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

§ 1.503 (d)-2 Fiscal years and short taxable years ending after March 1, 1954, subject to the Internal Revenue Code of 1939. Pursuant to section 7851 (a) (1) (C), the regulations prescribed in §§ 1.503 (a)-1 to 1.503 (d)-1, inclusive, as they relate to the denial of exemption to organizations described in section 401 (a) engaged in prohibited transactions after March 1, 1954, shall also apply to taxable years beginning after December 31, 1953, and ending after March 1, 1954, but before August 17, 1954, and to taxable years beginning before January 1, 1954, and ending after March 1, 1954, which years are subject to the Internal Revenue Code of 1939.

§ 1.503 (e) Statutory provisions; requirements for exemption; disallowance of certain charitable, etc., deductions.

SEC. 503. Requirements for exemption.

(e) **Disallowance of certain charitable, etc., deductions.** No gift or bequest for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals), otherwise allowable as a deduction under section 170, 642 (c), 545 (b) (2), shall be allowed as a deduction if made to an organization described in section 501 (c) (3) which, in the taxable year of the organization in which the gift or bequest is made, is not exempt under section 501 (a) by reason of this section. With respect to any taxable year of the organization for which the organization is not exempt pursuant to subsection (a) by reason of having engaged in a prohibited transaction with the purpose of diverting the corpus or income of such organization from its exempt purposes and such transaction involved a substantial part of such corpus or income, and which taxable year is the same, or prior to the, taxable year of the organization in which such transaction occurred, such deduction shall be disallowed the donor only if such donor or (if such donor is an individual) any member of his family (as defined in section 267 (c) (4)) was a party to such prohibited transaction.

§ 1.503 (e)-1 Disallowance of certain charitable deductions. (a) No gift or contribution which would otherwise be allowable as a charitable or other deduction under section 170, 642 (c), or 545 (b) (2) shall be allowed as a deduction if made to an organization described in section 501 (c) (3) which at the time the gift or contribution is made is not exempt under section 501 (a) by reason of the provisions of section 503.

(b) If an organization which is described in section 501 (c) (3) is not exempt because it engaged in a prohibited transaction involving a substantial part of its income or corpus with the purpose of diverting its income or corpus from its exempt purposes, and if the organization receives a gift or contribution during, or prior to, its taxable year in which such prohibited transaction occurred, then a deduction by the donor with respect to the gift or contribution shall not be disallowed under section 503 (e) unless the donor (or any member of his family if the donor is an individual) is a party to such prohibited transaction.

For the purpose of the preceding sentence, "family" is defined in section 267 (c) (4) and includes brothers and sisters, whether by whole or half blood, spouse, ancestors, and lineal descendants. See the regulations under section 267 (c).

(c) The application of section 503 (e) may be illustrated by the following example:

Example. In 1954, Corporation M, which files its income tax returns on the calendar year basis, creates a foundation purportedly for charitable purposes and deducts from its gross income for that year the amount of the gift to the foundation. Corporation M makes additional gifts to this foundation in 1955, 1956, and 1957, and takes charitable deductions for such years. B, an individual, also contributes to the foundation in 1955, 1956, and 1957, and takes charitable deductions for such years. In 1955, the foundation commences purposely to divert its corpus to the benefit of Corporation M, and a substantial amount of such corpus is so diverted by the close of the taxable year 1956. For 1955 and subsequent taxable years, the exemption allowed the foundation as an organization described in section 501 (c) (3) is denied by reason of the provisions of section 503 (a). Both Corporation M and individual B would be disallowed any deduction for the contributions made during 1957 to the foundation. Moreover, the charitable deductions taken by Corporation M for contributions to the foundation in the years 1955 and 1956 would also be disallowed since Corporation M was a party to the prohibited transaction. If the facts and surrounding circumstances indicate that the contribution in 1954 by Corporation M was for the purpose of the prohibited transaction, then the charitable deduction for the year 1954 shall also be disallowed with respect to Corporation M, since the prohibited transaction would then have commenced with the making of such contribution and the exemption allowed the foundation would then be denied for 1954 by reason of the provisions of section 503 (e). B's deductions for his contributions for the years 1955 and 1956 will not be disallowed since he was not a party to the prohibited transaction.

§ 1.503 (f) Statutory provisions; requirements for exemption; definitions.

SEC. 503. Requirements for exemption. * * *

(f) **Definition.** For purposes of this section, the term "gift or bequest" means any gift, contribution, bequest, devise, legacy, or transfer.

§ 1.503 (g) Statutory provisions; requirements for exemption; special rule for loans.

SEC. 503. Requirements for exemption. * * *

(g) **Special rule for loans.** For purposes of the application of subsection (c) (1), in the case of a loan by a trust described in section 401 (a), the following rules shall apply with respect to a loan made before March 1, 1954, which would constitute a prohibited transaction if made on or after March 1, 1954:

(1) If any part of the loan is repayable prior to December 31, 1955, the renewal of such part of the loan for a period not extending beyond December 31, 1955, on the same terms, shall not be considered a prohibited transaction.

(2) If the loan is repayable on demand, the continuation of the loan without the receipt of adequate security and a reasonable rate of interest beyond December 31, 1955, shall be considered a prohibited transaction.

§ 1.503 (g)-1 **Cross reference.** For provisions relating to loans by a trust

described in section 401 (a), see § 1.503 (c)-1.

§ 1.504 Statutory provisions; denial of exemption.

SEC. 504. Denial of exemption—(a) General rule. In the case of any organization described in section 501 (c) (3) to which section 503 is applicable, exemption under section 501 shall be denied for the taxable year if the amounts accumulated out of income during the taxable year or any prior taxable year and not actually paid out by the end of the taxable year—

(1) Are unreasonable in amount or duration in order to carry out the charitable, educational, or other purpose or function constituting the basis for exemption under section 501 (a) of an organization described in section 501 (c) (3); or

(2) Are used to a substantial degree for purposes or functions other than those constituting the basis for exemption under section 501 (a) of an organization described in section 501 (c) (3); or

(3) Are invested in such a manner as to jeopardize the carrying out of the charitable, educational, or other purpose or function constituting the basis for exemption under section 501 (a) of an organization described in section 501 (c) (3).

Paragraph (1) shall not apply to income attributable to property of a decedent dying before January 1, 1951, which is transferred under his will to a trust created by such will. In the case of a trust created by the will of a decedent dying on or after January 1, 1951, if income is required to be accumulated pursuant to the mandatory terms of the will creating the trust, paragraph (1) shall apply only to income accumulated during a taxable year of the trust beginning more than 21 years after the date of death of the last life in being designated in the trust instrument.

(b) **Gross references.** For the limitation on charitable contributions in case of unreasonable accumulations by certain trusts, see section 681 (c) (2).

§ 1.504-1 Denial of exemption. (a)

The restrictions enumerated in section 504 are in addition to and not in limitation of the restrictions contained in section 501 (c) (3). Even though an organization has not violated any of the terms of section 504, it still may not qualify for tax exemption in view of the general provisions of section 501 (c) (3). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator of such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purposes.

(b) (1) Any organization described in section 501 (c) (3) other than an organization described in section 503 (b) (1) through (5), inclusive, shall not be exempt under section 501 (a) if the amounts accumulated out of income during the taxable year, or any prior taxable year, and not actually paid out for exempt purposes by the end of the taxable year, are unreasonable. Amounts accumulated out of income become unreasonable when more income is accumulated than is needed, or when the duration of the accumulation is longer than is needed in order to carry out the purpose constituting the basis for the organization's exemption. Furthermore, such an organization shall not be exempt

under section 501 (a) if amounts accumulated out of income are used to a substantial degree for purposes or functions other than those constituting the basis for the organization's exemption, or if such amounts are invested in such a manner as to jeopardize the carrying out of the purpose or function constituting the basis for the organization's exemption.

(2) The provisions for the denial of exemption for unreasonable accumulations of income will not apply to income attributable to property of a decedent dying before January 1, 1951, which is transferred under his will to a trust created by such will. In the case of a trust created by the will of a decedent dying on or after January 1, 1951, where income is required to be accumulated by the trust, the denial of exemption for unreasonable accumulations of income under paragraph (b) (1) will apply only to income accumulated during a taxable year of the trust beginning more than 21 years after the date of death of the last life in being designated in the trust instrument.

(c) For the purpose of section 504, the term "income" means gains, profits, and income determined under the principles applicable in determining the earnings or profits of a corporation. The amount accumulated out of income during the taxable year or any prior taxable year shall be determined under the principles applicable in determining the accumulated earnings or profits of a corporation. In determining the reasonableness of an accumulation out of income, there will be disregarded the following:

(1) The accumulation of gain upon the sale or exchange of a donated asset to the extent that such gain represents the excess of the fair market value of such asset when acquired by the organization over its substituted basis in the hands of the organization;

(2) The accumulation of gain upon the sale or exchange of property held for the production of investment income, such as dividends, interest, and rents, where the proceeds of such sale or exchange are within a reasonable time reinvested in property acquired and held in good faith for the production of investment income.

(d) Whether the conditions specified in paragraphs (1), (2), and (3) of section 504 (a) are present in any case must be determined from all the facts. The conditions specified in section 504 (a) (1), (2), and (3) may result from the use of only one organization or of a chain of two or more organizations.

(e) An organization that has lost its exempt status by reason of the provisions of section 504 may, in order to reestablish its exemption, file a claim for exemption with the district director of internal revenue for the internal revenue district in which is located the principal place of business or principal office of the organization. Form 1023, the exemption application, shall be used for this purpose. The claim for exemption must contain or be accompanied by information or evidence showing that the circumstances that caused the loss of exemption under section 504 no longer exist, and a written

declaration made under the penalties of perjury, by a principal officer of such organization authorized to make such declaration, that the organization will not knowingly again violate the terms of section 504. See § 1.501 (a)-1 for proof of exemption requirements in general. The provisions of section 504 contemplate that an organization denied exemption thereunder will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

(f) In the case of an organization described in section 501 (c) (3) denied exemption under section 501 (a) solely by reason of the provisions of section 504, deductions otherwise allowable under section 170, 545 (b) (2), or 642 (c) for gifts or contributions to such organization shall not be disallowed for the year during which the exemption is denied and prior years.

TAXATION OF BUSINESS INCOME OF CERTAIN EXEMPT ORGANIZATIONS

§ 1.511 Statutory provisions; imposition of tax on unrelated business income of charitable, etc., organizations.

SEC. 511. Imposition of tax on unrelated business income of charitable, etc., organizations—(a) Charitable, etc., organizations taxable at corporation rates—(1) Imposition of tax. There is hereby imposed for each taxable year on the unrelated business taxable income (as defined in section 512) of every organization described in paragraph (2) a normal tax and a surtax computed as provided in section 11. In making such computation for purposes of this section, the term "taxable income" as used in section 11 shall be read as "unrelated business taxable income".

(2) Organizations subject to tax—(A) Organizations described in section 501 (c) (2), (3), (5), and (6), and section 401 (a). The taxes imposed by paragraph (1) shall apply in the case of any organization (other than a church, a convention or association of churches, or a trust described in subsection (b)) which is exempt, except as provided in this part, from taxation under this subtitle by reason of section 401 (a) or of paragraph (3), (5), or (6) of section 501 (c). Such taxes shall also apply in the case of a corporation described in section 501 (c) (2) if the income is payable to an organization which itself is subject to the taxes imposed by paragraph (1) or to a church or to a convention or association of churches.

(B) State colleges and universities. The taxes imposed by paragraph (1) shall apply in the case of any college or university which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof, or by any agency or instrumentality of one or more governments or political subdivisions. Such taxes shall also apply in the case of any corporation wholly owned by one or more such colleges or universities.

(b) Tax on charitable, etc., trusts—(1) Imposition of tax. There is hereby imposed for each taxable year on the unrelated business taxable income of every trust described in paragraph (2) a tax computed as provided in section 11. In making such computation for purposes of this section, the term "taxable income" as used in section 11 shall be

read as "unrelated business taxable income" as defined in section 512.

(2) Charitable, etc., trusts subject to tax. The tax imposed by paragraph (1) shall apply in the case of any trust which is exempt, except as provided in this part, from taxation under this subtitle by reason of section 501 (c) (3) or section 401 (a) and which, if it were not for such exemption, would be subject to subchapter J (sec. 641 and following, relating to estates, trusts, beneficiaries, and decedents).

(c) Effective date. The tax imposed by this section shall apply, in the case of a trust described in section 401 (a), only for taxable years beginning after June 30, 1954.

§ 1.511-1 Imposition and rates of tax. Section 511 (a) imposes a tax upon the unrelated business taxable income of certain organizations otherwise exempt from Federal income tax. Under section 511 (a) (1), organizations described in section 511 (a) (2) (A) and in paragraph (a) of § 1.511-2 and organizations described in section 511 (a) (2) (B) are subject to normal tax and surtax at the corporate rates provided by section 11. Under section 511 (b) (1), trusts described in section 511 (b) (2) are subject to tax at the individual rates prescribed in section 1. The deduction for personal exemption provided in section 642 (b) in the case of a trust taxable under subchapter J is not allowed in computing unrelated business taxable income.

§ 1.511-2 Organizations subject to tax.

(a) (1) The taxes imposed by section 511 (a) (1) apply in the case of any organization (other than a church, a convention or association of churches, or a trust described in section 511 (b) (2)) which is exempt (except as provided in sections 511 through 515) from taxation under section 501 (a) as an organization described in section 501 (c) (3), (5), or (6), or section 401 (a). A corporation described in section 501 (c) (2) exempt from taxation under section 501 (a) holding property for an organization which itself is subject to the tax or for a church or a convention or association of churches, is also subject to the tax imposed by section 511 (a) (1).

(2) The taxes imposed by section 511 (a) apply in the case of any college or university which is an agency or instrumentality of any government or any political subdivision thereof, or which is owned or operated by a government or any political subdivision thereof or by any agency or instrumentality of any one or more governments or political subdivisions. Such taxes also apply in the case of any corporation wholly owned by one or more such colleges or universities. As here used, the word "government" includes any foreign government (to the extent not contrary to any treaty obligation of the United States) and all domestic governments (the United States and any of its Territories or possessions, any State, and the District of Columbia). Elementary and secondary schools operated by such governments are not subject to the tax on unrelated business income.

(3) (i) Churches and associations or conventions of churches are exempt from the tax imposed by section 511. The exemption is applicable only to an organi-

zation which itself is a church or an association or convention of churches. Subject to the provisions of subdivision (ii) of this subparagraph, religious organizations, including religious orders, if not themselves churches or associations or conventions of churches, and all other organizations which are organized or operated under church auspices, are subject to the tax imposed by section 511, whether or not they engage in religious, educational, or charitable activities approved by a church.

(ii) The term "church" includes a religious order or a religious organization if such order or organization (a) is an integral part of a church, and (b) is engaged in carrying out the functions of a church, whether as a civil law corporation or otherwise. In determining whether a religious order or organization is an integral part of a church, consideration will be given to the degree to which it is connected with, and controlled by, such church. A religious order or organization shall be considered to be engaged in carrying out the functions of a church if its duties include the ministration of sacerdotal functions and the conduct of religious worship. If a religious order or organization is not an integral part of a church, or if such an order or organization is not authorized to carry out the functions of a church (ministration of sacerdotal functions and conduct of religious worship) then it is subject to the tax imposed by section 511 whether or not it engages in religious, educational, or charitable activities approved by a church. What constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of a particular religious body constituting a church. If a religious order or organization can fully meet the requirements stated in this subdivision, exemption from the tax imposed by section 511 will apply to all its activities, including those which it conducts through a separate corporation (other than a corporation described in section 501 (c) (2)) or other separate entity which it wholly owns and which is not operated for the primary purpose of carrying on a trade or business for profit. Such exemption from tax will also apply to activities conducted through a separate corporation (other than a corporation described in section 501 (c) (2)) or other separate entity which is wholly owned by more than one religious order or organization, if all such orders or organizations fully meet the requirements stated in this subdivision and if such corporation or other entity is not operated for the primary purpose of carrying on a trade or business for profit.

(b) The taxes imposed by section 511 (b) apply in the case of any trust which is exempt (except as provided in sections 511 through 515) from taxation under section 501 (a) as an organization described in section 501 (c) (3) or section 401 (a) and which, if it were not for such exemption, would be subject to the provisions of subchapter J of chapter 1. In the case of a trust described in section 401 (a), the tax imposed by section 511

(b) and this section shall apply only for taxable years beginning after June 30, 1954. An organization which is considered as "trustee" of a stock bonus, pension, or profit-sharing plan described in section 401 (a) (regardless of the form of such organization) is subject to the taxes imposed by section 511 (b) (1) on its unrelated business taxable income. However, if such an organization conducts a business which is a separate taxable entity on the basis of all the facts and circumstances, for example, as a corporation or an association taxable as a corporation, the business will be taxable as a feeder organization described in section 502.

§ 1.511-3 Provisions generally applicable to the tax on unrelated business income—(a) Assessment and collections. Since the taxes imposed by section 511 are taxes imposed by subtitle A of the Internal Revenue Code of 1954, all provisions of law and of the regulations applicable to the taxes imposed by subtitle A are applicable to the assessment and collection of the taxes imposed by section 511. Organizations subject to the tax imposed by section 511 (a) (1) are subject to the same provisions, including penalties, as are provided in the case of the income tax of other corporations. In the case of a trust subject to the tax imposed by section 511 (b) (1), the fiduciaries for such trust are subject to the same provisions, including penalties, as are applicable to fiduciaries in the case of the income tax of other trusts. See section 6151, et seq., and the regulations prescribed thereunder, for provisions relating to payment of tax.

(b) **Returns.** For requirements of filing annual returns with respect to unrelated business taxable income by organizations subject to the tax on such income, see section 6012, paragraph (e) of § 1.6012-2, and paragraph (a) (5) of § 1.6012-3.

(c) **Taxable years, method of accounting, etc.** The taxable year (fiscal year or calendar year, as the case may be) of an organization shall be determined without regard to the fact that such organization may have been exempt from tax during any prior period. See sections 441, 446, and 7701, and the regulations thereunder. Similarly, in computing unrelated business taxable income, the determination of the taxable year for which an item of income or expense is taken into account shall be made under the provisions of sections 441, 446, 451, and 461, and the regulations thereunder, whether or not the item arose during a taxable year beginning before, on, or after the effective date of the provisions imposing a tax upon unrelated business taxable income. If a method for treating bad debts was selected in a return of income (other than an information return) for a previous taxable year, the taxpayer must follow such method in its returns under section 511, unless such method is changed in accordance with the provisions of § 1.166-1. A taxpayer which has not previously selected a method for treating bad debts may, in its first return under section 511, exercise the option granted in § 1.166-1.

(d) **Foreign tax credit.** See section 515 for provisions applicable to the credit for foreign taxes provided in section 901.

§ 1.512 (a) Statutory provisions; unrelated business taxable income; definition.

Sec. 512. Unrelated business taxable income—(a) Definition. The term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in section 513) regularly carried on by it, less the deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the exceptions, additions, and limitations provided in subsection (b). In the case of an organization described in section 511 which is a foreign organization, the unrelated business taxable income shall be its unrelated business taxable income derived from sources within the United States determined under subchapter N (sec. 861 and following, relating to tax based on income from sources within or without the United States).

§ 1.512 (a)-1 Definition; general rule. The unrelated business taxable income which is subject to the tax imposed by section 511 is the gross income, derived by any organization to which section 511 applies, from any unrelated trade or business regularly carried on by it, less the deductions allowed by chapter 1 of the Code which are directly connected with the carrying on of such trade or business, subject to certain exceptions, additions, and limitations referred to below. In the case of an organization which regularly carries on two or more unrelated businesses, its unrelated business taxable income is the aggregate of its gross income from all such unrelated businesses, less the aggregate of the deductions allowed with respect to all such unrelated businesses. For provisions generally applicable to the unrelated business tax, see § 1.511-3, and for rules applicable to the determination of the adjusted basis of property, see paragraph (a) (2) of § 1.514 (a)-1.

§ 1.512 (b) Statutory provisions; unrelated business taxable income; exceptions, additions, and limitations.

Sec. 512. Unrelated business taxable income. * * *

(b) **Exceptions, additions, and limitations.** The exceptions, additions, and limitations applicable in determining unrelated business taxable income are the following:

(1) There shall be excluded all dividends, interest, and annuities, and all deductions directly connected with such income.

(2) There shall be excluded all royalties (including overriding royalties) whether measured by production or by gross or taxable income from the property, and all deductions directly connected with such income.

(3) There shall be excluded all rents from real property (including personal property leased with the real property), and all deductions directly connected with such rents.

(4) Notwithstanding paragraph (3), in the case of a business lease (as defined in section 514) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under section 514 (a) (1), and there shall be allowed, as a deduction, the amount ascertained under section 514 (a) (2).

(5) There shall be excluded all gains or losses from the sale, exchange, or other disposition of property other than—

(A) Stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, or

(B) Property held primarily for sale to customers in the ordinary course of the trade or business.

This paragraph shall not apply with respect to the cutting of timber which is considered, on the application of section 631, as a sale or exchange of such timber.

(6) The net operating loss deduction provided in section 172 shall be allowed, except that—

(A) The net operating loss for any taxable year, the amount of the net operating loss carryback or carryover to any taxable year, and the net operating loss deduction for any taxable year shall be determined under section 172 without taking into account any amount of income or deduction which is excluded under this part in computing the unrelated business taxable income; and

(B) The terms "preceding taxable year" and "preceding taxable years" as used in section 172 shall not include any taxable year for which the organization was not subject to the provisions of this part.

(7) There shall be excluded all income derived from research for (A) the United States, or any of its agencies or instrumentalities, or (B) any State or political subdivision thereof; and there shall be excluded all deductions directly connected with such income.

(8) In the case of a college, university, or hospital, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(9) In the case of an organization operated primarily for purposes of carrying on fundamental research the results of which are freely available to the general public, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(10) In the case of any organization described in section 511 (a), the deduction allowed by section 170 (relating to charitable etc. contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), but shall not exceed 5 percent of the unrelated business taxable income computed without the benefit of this paragraph.

(11) In the case of any trust described in section 511 (b), the deduction allowed by section 170 (relating to charitable etc. contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), and for such purpose a distribution made by the trust to a beneficiary described in section 170 shall be considered as a gift or contribution. The deduction allowed by this paragraph shall be allowed with the limitations prescribed in section 170 (b) (1) (A) and (B) determined with reference to the unrelated business taxable income computed without the benefit of this paragraph (in lieu of with reference to adjusted gross income).

(12) There shall be allowed a specific deduction of \$1,000.

§ 1.512 (b)-1 Exceptions, additions, and limitations. Whether a particular item of income falls within any of the exceptions, additions, and limitations provided in section 512 (b) shall be determined by all the facts and circumstances of each case. For example, if a payment termed "rent" by the parties is in fact a return of profits by a person operating the property for the benefit of

the tax-exempt organization or is a share of the profits retained by such organization as a partner or a joint venturer, such payment is not within the exception for rent. The exceptions, additions, and limitations provided in section 512 (b) are as follows:

(a) *Dividends, interest, and annuities.* All dividends, interest, and annuities, and the deductions directly connected therewith, shall be excluded in computing unrelated business taxable income.

(b) *Royalties.* Royalties, including overriding royalties, and all deductions directly connected with such income shall be excluded in computing unrelated business taxable income. Mineral royalties shall be excluded whether measured by production or by gross or taxable income from the mineral property. However, where an organization owns a working interest in a mineral property, and is not relieved of its share of the development costs by the terms of any agreement with an operator, income received from such an interest shall not be excluded. In-oil payments shall be treated in the same manner as royalty payments for the purpose of computing unrelated business taxable income.

(c) *Rents.* (1) Rents from real property (including personal property leased with the real property) and the deductions directly connected therewith shall also be excluded in computing unrelated business taxable income, except that certain rents from, and certain deductions in connection with, a business lease (as defined in section 514 (a)) shall be included in computing unrelated business taxable income. See §§ 1.514 (a)-1 and 1.514 (a)-2.

(2) Payments for the use or occupancy of rooms or other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, motor courts or motels, or for the use or occupancy of space in parking lots, warehouses, or storage garages, do not constitute rentals from real estate. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exits, stairways and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in an office building, etc., are generally rentals from real estate.

(d) *Gains and losses from the sale, etc., of property.* There shall also be excluded from the computation of unrelated business taxable income gains or losses from the sale, exchange, or other disposition of property other than (1) stock in trade or other property of a kind which would properly be included in the inventory of the organization if

on hand at the close of the taxable year, or (2) property held primarily for sale to customers in the ordinary course of the trade or business. This exclusion does not apply with respect to the cutting of timber which is considered, upon the application of section 631 (a), as a sale or exchange of such timber. The exclusion under section 512 (b) (5) applies with respect to gains and losses from involuntary conversions, casualties, etc.

(e) *Net operating losses.* (1) The net operating loss deduction provided in section 172 shall be allowed in computing unrelated business taxable income. However, the net operating loss carryback or carryover (from a taxable year for which the taxpayer is subject to the provisions of section 511) shall be determined under section 172 without taking into account any amount of income or deduction which is not included under section 511 in computing unrelated business taxable income. For example, a loss attributable to an unrelated trade or business shall not be diminished by reason of the receipt of dividend income.

(2) For the purpose of computing the net operating loss deduction provided by section 172, any prior taxable year for which an organization was not subject to the provisions of section 511, or a corresponding provision of prior law, shall not be taken into account. Thus, if the organization was not subject to the provisions of section 511 or Supplement U of the 1939 Code for a preceding taxable year, the net operating loss is not a carryback to such preceding taxable year, and the net operating loss carryover to succeeding taxable years is not reduced by the taxable income for such preceding taxable year.

(3) A net operating loss carryback or carryover shall be allowed only from a taxable year for which the taxpayer is subject to the provisions of section 511, or a corresponding provision of prior law.

(4) In determining the span of years for which a net operating loss may be carried for purposes of section 172, taxable years in which an organization was not subject to the provisions of section 511 or a corresponding provision of prior law shall be taken into account. Thus, for example, if an organization is subject to the provisions of section 511 for the taxable year 1955 and has a net operating loss for that year, the last taxable year to which any part thereof may be carried over is the year 1960 regardless of whether the organization is subject to the provisions of section 511 in any of the intervening taxable years.

(f) *Research.* (1) Income derived from research for the United States or any of its agencies or instrumentalities or a State or political subdivision thereof, and all deductions directly connected with such income, shall be excluded in computing unrelated business taxable income.

(2) In the case of a college, university, or hospital, all income derived from research performed for any person and all deductions directly connected with such income, shall be excluded in computing unrelated business taxable income.

(3) In the case of an organization operated primarily for the purpose of car-

rying on fundamental research (as distinguished from applied research) the results of which are freely available to the general public, all income derived from research performed for any person and all deductions directly connected with such income shall be excluded in computing unrelated business taxable income.

(4) For the purpose of § 1.512 (a)-1 and this section, the term "research" does not include activities of a type ordinarily carried on as an incident to commercial or industrial operations, for example, the ordinary testing or inspection of materials or products or the designing or construction of equipment, buildings, etc. The term "fundamental research" does not include research carried on for the primary purpose of commercial or industrial application.

(g) *Charitable, etc., contributions.* (1) In computing the unrelated business taxable income of an organization described in section 511 (a) (2) the deduction from gross income allowed by section 170 (relating to charitable contributions and gifts) shall be allowed, whether or not the contribution is directly connected with the carrying on of the trade or business. Section 512 (b) (10) provides that this deduction shall not exceed 5 percent of the organization's unrelated business taxable income computed without regard to that deduction. The provisions of section 170 (b) (2) are not applicable to contributions by the organizations described in section 511 (a) (2).

(2) In computing the unrelated business taxable income of a trust described in section 511 (b) (2), the deduction allowed by section 170 (relating to charitable contributions and gifts) shall be allowed whether or not the contribution is directly connected with the carrying on of the trade or business. The deduction is limited as provided in section 170 (b) (1) (A) and (B), except that the amounts so allowed are determined on the basis of unrelated business taxable income computed without regard to this deduction (rather than on the basis of adjusted gross income). For purposes of this deduction, a distribution by a trust described in section 511 (b) (2) made pursuant to the trust instrument to a beneficiary described in section 170 shall be treated in the same manner as gifts or contributions.

(3) The contribution, whether made by a trust or other exempt organization, must be paid to another organization to be allowable. For example, a university described in section 501 (c) (3) which is exempt from tax and which operates an unrelated business, shall be allowed a deduction, not in excess of 5 percent of its unrelated business taxable income, for gifts or contributions to another university described in section 501 (c) (3) for educational work but shall not be allowed any deduction for amounts expended in administering its own educational program.

(h) *Specific deduction.* In computing unrelated business taxable income a deduction from gross income of \$1,000 is allowed.

§ 1.512 (c) Statutory provisions; unrelated business taxable income; special rules applicable to partnerships.

Sec. 512. Unrelated business taxable income. . . .

(c) *Special rules applicable to partnerships.* If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income. If the taxable year of the organization is different from that of the partnership, the amounts to be so included or deducted in computing the unrelated business taxable income shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization.

§ 1.512 (c)-1 Special rules applicable to partnerships; in general. In the event an organization to which section 511 applies is a member of a partnership regularly engaged in a trade or business which is an unrelated trade or business with respect to such organization, the organization shall include in computing its unrelated business taxable income so much of its share (whether or not distributed) of the partnership gross income as is derived from that unrelated business and its share of the deductions attributable thereto. For this purpose, both the gross income and the deductions shall be computed with the necessary adjustments for the exceptions, additions, and limitations referred to in section 512 (b) and in § 1.512 (b)-1. For example, if an exempt educational institution is a partner in a partnership which operates a factory and if such partnership also holds stock in a corporation, the exempt organization shall include in computing its unrelated business taxable income its share of the gross income from the operation of the factory, but not its share of any dividends received by the partnership from the corporation. If the taxable year of the organization differs from that of the partnership, the amounts included or deducted in computing unrelated business taxable income shall be based upon the income and deductions of the partnership for each taxable year of the partnership ending within or with the taxable year of the organization.

§ 1.513 Statutory provisions; unrelated trade or business.

Sec. 513. Unrelated trade or business—(a) General rule. The term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501 (or, in the case of an organization described in section 511 (a) (2) (B), to the exercise or performance of any purpose or function described in section 501 (c) (3)), except that such term does not include any trade or business—

(1) In which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) Which is carried on, in the case of an organization described in section 501 (c) (3) or in the case of a college or university described in section 511 (a) (2) (B), by the organization primarily for the convenience of its members, students, patients, officers, or employees; or

(3) Which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

(b) *Special rule for trusts.* The term "unrelated trade or business" means, in the case of—

(1) A trust computing its unrelated business taxable income under section 512 for purposes of section 681; or

(2) A trust described in section 401 (a) which is exempt from tax under section 501 (a);

any trade or business regularly carried on by such trust or by a partnership of which it is a member.

(c) *Special rule for certain publishing businesses.* If a publishing business carried on by an organization during a taxable year beginning before January 1, 1953, is, without regard to this subsection, an unrelated trade or business, but before the beginning of the third succeeding taxable year the business is carried on by it (or by a successor who acquired such business in a liquidation which would have constituted a tax-free exchange under section 112 (b) (6) of the Internal Revenue Code of 1939) in such manner that the conduct thereof is substantially related to the exercise or performance by such organization (or such successor) of its educational or other purpose or function described in section 501 (c) (3), such publishing business shall not be considered, for the taxable year, as an unrelated trade or business.

§ 1.513-1 Definition of unrelated trade or business—(a) In general. (1) As used in section 512 (a), the term "unrelated business taxable income" includes only income from an unrelated trade or business regularly carried on, and the term "trade or business" has the same meaning as it has in section 162.

(2) The income of an exempt organization is subject to the tax on unrelated business income only if two conditions are present with respect to such income. The first condition is that the income must be from a trade or business which is regularly carried on by the organization. The second condition is that the trade or business must not be substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501, or, in the case of an organization described in section 511 (a) (2) (B) (governmental colleges, etc.) to the exercise or performance of any purpose or function described in section 501 (c) (3). Whether or not an organization is subject to the tax imposed by section 511 shall be determined by the application of these tests to the particular circumstances involved in each individual case. For certain exceptions from the term "unrelated trade or business", see paragraph (b) of this section.

(3) A trade or business is regularly carried on when the activity is conducted with sufficient consistency to indicate a

continuing purpose of the organization to derive some of its income from such activity. An activity may be regularly carried on even though its performance is infrequent or seasonal.

(4) Ordinarily, a trade or business is substantially related to the activities for which an organization is granted exemption if the principal purpose of such trade or business is to further (other than through the production of income) the purpose for which the organization is granted exemption. In the usual case the nature and size of the trade or business must be compared with the nature and extent of the activities for which the organization is granted exemption in order to determine whether the principal purpose of such trade or business is to further (other than through the production of income) the purpose for which the organization is granted exemption. For example, the operation of a wheat farm is substantially related to the exempt activity of an agricultural college if the wheat farm is operated as a part of the educational program of the college, and is not operated on a scale disproportionately large when compared with the educational program of the college. Similarly, a university radio station or press is considered a related trade or business if operated primarily as an integral part of the educational program of the university, but is considered an unrelated trade or business if operated in substantially the same manner as a commercial radio station or publishing house. A trade or business not otherwise related does not become substantially related to an organization's exempt purpose merely because incidental use is made of the trade or business in order to further the exempt purpose. For example, the manufacture and sale of a product by an exempt college would not become substantially related merely because students as part of their educational program perform clerical or book-keeping functions in the business. In some cases, the business may be substantially related because it is a necessary part of the exempt activity. For example, in the case of an organization described in section 501 (c) (3) and engaged in the rehabilitation of handicapped persons, the business of selling articles made by such persons as a part of their rehabilitation training would not be considered an unrelated business since such business is a necessary part of the rehabilitation program.

(b) *Exceptions.* Section 513 (a) specifically states that the term "unrelated trade or business" does not include—

(1) Any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) Any trade or business carried on by an organization described in section 501 (c) (3) or by a governmental college or university described in section 511 (a) (2) (B), primarily for the convenience of its members, students, patients, officers, or employees; or

(3) Any trade or business which consists of selling merchandise, substantially all of which has been received by the organization as gifts or contributions.

An example of the operation of the first of the exceptions mentioned above would be an exempt orphanage operating a retail store and selling to the general public, where substantially all the work in carrying on such business is performed for the organization by volunteers without compensation. An example of the second exception would be a laundry operated by a college for the purpose of laundering dormitory linens and the clothing of students. The third exception applies to so-called "thrift shops" operated by a tax-exempt organization where those desiring to benefit such organization contribute old clothes, books, furniture, etc., to be sold to the general public with the proceeds going to the exempt organization.

(c) *Special rule respecting publishing businesses.* For a special rule with respect to publishing businesses carried on by an organization, see section 513 (c).

§ 1.514 (a) Statutory provisions; business leases; business lease rents and deductions.

Sec. 514. Business leases—(a) Business lease rents and deductions. In computing under section 512 the unrelated business taxable income for any taxable year—

(1) *Percentage of rents taken into account.* There shall be included with respect to each business lease, as an item of gross income derived from an unrelated trade or business, an amount which is the same percentage (but not in excess of 100 percent) of the total rents derived during the taxable year under such lease as (A) the business lease indebtedness, at the close of the taxable year, with respect to the premises covered by such lease is of (B) the adjusted basis, at the close of the taxable year, of such premises.

(2) *Percentage of deductions taken into account.* There shall be allowed with respect to each business lease, as a deduction to be taken into account in computing unrelated business taxable income, an amount determined by applying the percentage derived under paragraph (1) to the sum determined under paragraph (3).

(3) *Deductions allowable.* The sum referred to in paragraph (2) is the sum of the following deductions allowable under this chapter:

(A) Taxes and other expenses paid or accrued during the taxable year on or with respect to the real property subject to the business lease.

(B) Interest paid or accrued during the taxable year on the business lease indebtedness.

(C) A reasonable allowance for exhaustion, wear and tear (including a reasonable allowance for obsolescence) of the real property subject to such lease.

Where only a portion of the real property is subject to the business lease, there shall be taken into account under subparagraphs (A), (B), and (C) only those amounts which are properly allocable to the premises covered by such lease.

§ 1.514 (a)-1 Business lease rents—(a) In general—(1) Rents includible in gross income. There shall be included with respect to each business lease, as an item of gross income derived from an unrelated trade or business, an amount which is the same percentage (but not in excess of 100 percent) of the total rents derived during the taxable year under such lease as—

(i) The amount of the business lease indebtedness at the close of the taxable

year of the lessor tax-exempt organization, with respect to the premises covered by such lease, is of

(ii) The adjusted basis of such premises at the close of such taxable year.

For definition of business lease as a lease for a term of more than 5 years, and for rules for determining the computation of such 5-year term in certain specific situations, see § 1.514 (b)-1. For definition of business lease indebtedness and allocation of business lease indebtedness where only a portion of the property is subject to a business lease, see § 1.514 (c)-1.

(2) *Determination of basis.* For purposes of the unrelated business income tax the basis (unadjusted) of property is determined under section 1012, and the adjusted basis of property is determined under section 1011. The determination of the adjusted basis of property is not affected by the fact that the organization was exempt from tax for prior taxable years. Proper adjustment must be made under section 1011 for the entire period since the acquisition of the property. Thus, adjustment must be made for depreciation for all prior taxable years whether or not the organization was exempt from tax for any of such years. Similarly, for taxable years during which the organization is subject to the tax on unrelated business taxable income the fact that only a portion of the deduction for depreciation is taken into account under section 514 (a) (2) does not affect the amount of the adjustment for depreciation.

(b) *Examples.* The application of this section may be illustrated by the following examples, in each of which it is assumed that the taxpayer makes its returns under section 511 on the basis of the calendar year, and that the lease is not substantially related to the purpose for which the organization is granted exemption from tax.

Example (1). Assume that a tax-exempt educational organization purchased property in 1942 for \$600,000, using borrowed funds, and leased the building for a period of 20 years. Assume further that the adjusted basis of such building at the close of 1954 is \$500,000 and that, at the close of 1954, \$200,000 of the indebtedness incurred to acquire the property remains outstanding. Since the amount of the outstanding indebtedness is two-fifths of the adjusted basis of the building at the close of 1954, two-fifths of the gross rental received from the building during 1954 shall be included as an item of gross income in computing unrelated business taxable income. If, at the close of a subsequent taxable year, the outstanding indebtedness is \$100,000 and the adjusted basis of the building is \$400,000, one-fourth of the gross rental for such taxable year shall be included as an item of gross income in computing unrelated business taxable income for such taxable year.

Example (2). Assume that a tax-exempt organization owns a 4-story building, that in 1954 it borrows \$100,000 which it uses to improve the whole building, and that it thereafter in 1954 rents the first and second floors of the building under 6-year leases at rentals of \$4,000 a year. The third and fourth floors of the building are leased on a yearly basis during 1954. Assume, also, that the adjusted basis of the real property at the end of 1954 (after reflecting the expenditures for improving the building) is \$200,000, allocable equally to each of the 4

stories. Under these facts, only one-half of the real property is subject to a business lease since only one-half is rented under a lease for more than five years. See § 1.514 (b)-1. The percentage of the rent under such lease which is taken into account is determined by the ratio which the allocable part of the business lease indebtedness bears to the allocable part of the adjusted basis of the real property, that is, the ratio which one-half of the \$100,000 of business lease indebtedness outstanding at the close of 1954, or \$50,000, bears to one-half of the adjusted basis of the business lease premises at the close of 1954, or \$100,000. The percentage of rent which is business lease income for 1954 is, therefore, one-half (the ratio of \$50,000 to \$100,000) of \$8,000, or \$4,000, and this amount of \$4,000 is considered an item of gross income derived from an unrelated trade or business.

§ 1.514 (a)-2 Business lease deductions. (a) The same percentage is used in determining both the portion of the rent and the portion of the deductions taken into account with respect to the business lease in computing unrelated business taxable income. See § 1.514 (a)-1 for the determination of such percentage. Such percentage is applicable only to the sum of the following deductions allowable under section 161:

(1) Taxes and other expenses paid or accrued during the taxable year upon or with respect to the real property subject to the business lease;

(2) Interest paid or accrued during the taxable year on the business lease indebtedness;

(3) A reasonable allowance for exhaustion, wear and tear (including a reasonable allowance for obsolescence) of the real property subject to such lease.

Where only a portion of the real property is subject to the business lease, there shall be taken into account only those amounts of the above-listed deductions which are properly allocable to the premises covered by such lease.

(b) The deductions allowable under section 514 (a) (3) and under paragraph (a) of this section with respect to a business lease are not limited by the amount included in gross income with respect to the rent from such lease, but any excess of such deductions over such gross income shall be applied against other items of gross income in computing unrelated business taxable income taxable under section 511 (a).

(c) The application of this section may be illustrated by the following example:

Example. Assume the same facts as those in example (1) in paragraph (b) of § 1.514 (a)-1. Assume, also, that for 1954 the organization pays taxes of \$4,000 on the property, interest of \$8,000 on its business lease indebtedness, and that the depreciation allowable for 1954 under section 167 is \$10,000. Under the facts set forth in such example (1) and in this example, the deductions to be taken into account for 1954 in computing unrelated business taxable income would be two-fifths of the total of the deductions of \$20,000, that is, \$8,000.

§ 1.514 (b) Statutory provisions; business leases; definition of business lease.

Sec. 514. Business leases. . . .

(b) *Definition of business lease—(1) General rule.* For purposes of this section, the term "business lease" means a lease for a term of more than 5 years of real property by an organization (or by a partnership of

which it is a member), if at the close of the lessor's taxable year there is a business lease indebtedness (as defined in subsection (c)) with respect to such property.

(2) *Special rules for applying paragraph (1).* For purposes of paragraph (1)—

(A) In computing the term of a lease which contains an option for renewal or extension, the term of such lease shall be considered as including any period for which such option may be exercised; and the term of any lease made pursuant to an exercise of such option shall include the period during which the prior lease was in effect. If real property is acquired subject to a lease, the term of such lease shall be considered to begin on the date of such acquisition.

(B) If the property has been occupied by the same lessee for a total period of more than 5 years commencing not earlier than the date of acquisition of the property by the organization or trust (whether such occupancy is under one or more leases, renewals, extensions, or continuations thereof), the occupancy of such lessee shall be considered to be under a lease for a term of more than 5 years within the meaning of paragraph (1). However, subsection (a) shall apply in the case of a tenancy described in this subparagraph (and not within subparagraph (A)) only with respect to the sixth and succeeding years of occupancy by the same lessee. For purposes of this subparagraph, the term "same lessee" shall include any lessee of the property whose relationship with a lessee of the same property is such that losses in respect of sales or exchanges of property between the 2 lessees would be disallowed under section 267 (a).

(3) *Exceptions.* (A) No lease shall be considered a business lease if—

(i) Such lease is entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501, or

(ii) The lease is of premises in a building primarily designed for occupancy, and occupied, by the organization.

(B) If a lease for more than 5 years to a tenant is for only a portion of the real property, and space in the real property is rented during the taxable year under a lease for not more than 5 years to any other tenant of the organization, leases of the real property for more than five years shall be considered as business leases during the taxable year only if—

(i) The rents derived from the real property during the taxable year under leases for more than 5 years (not including, as a lease for more than 5 years, an occupancy which is considered as such a lease by reason of paragraph (2) (B)) represent 50 percent or more of the total rents derived during the taxable year from the real property; or the area of the premises occupied under leases for more than 5 years (not including, as a lease for more than 5 years, an occupancy which is considered as such a lease by reason of paragraph (2) (B)) represents, at any time during the taxable year, 50 percent or more of the total area of the real property rented at such time; or

(ii) The rent derived from the real property during the taxable year from any tenant under a lease for more than 5 years (including as a lease for more than 5 years an occupancy which is considered as such a lease by reason of paragraph (2) (B)), or from a group of tenants (under such leases) who are either members of an affiliated group (as defined in section 1504) or partners, represents more than 10 percent of the total rents derived during the taxable year from such property; or the area of the premises occupied by any one such tenant, or by any

such group of tenants, represents at any time during the taxable year more than 10 percent of the total area of the real property rented at such time.

In the application of clause (1), if during the last half of the term of a lease a new lease is made to take effect after the expiration of such lease, the unexpired portion of such lease on the date the second lease is made shall not be treated as a part of the term of the second lease.

§ 1.514 (b)-1 *Definition of business lease.*—(a) *In general.* The term "business lease" means any lease, with certain exceptions discussed in paragraph (c) of this section, for a term of more than five years of real property by an organization subject to section 511 (or by a partnership of which it is a member) if at the close of the organization's taxable year there is a business lease indebtedness as defined in section 514 (c) and § 1.514 (c)-1 with respect to such property. For the purpose of section 514, the term "real property" and the term "premises" include personal property of the lessor tax-exempt organization leased by it to a lessee of its real estate if the lease of such personal property is made under, or in connection with, the lease of such real estate. For amounts of business lease rents and deductions to be included in computing unrelated business taxable income, see §§ 1.514 (a)-1 and 1.514 (a)-2.

(b) *Special rules.* (1) In computing the term of the lease, the period for which a lease may be renewed or extended by reason of an option contained therein shall be considered as part of the term. For example, a 3-year lease with an option for renewal for another such period is considered a lease for a term of six years. Another example is the case of a 1-year lease with option of renewal for another such term, where the parties at the end of each year renew the arrangement. In this case, during the fifth year (but not during the first four years), the lease falls within the 5-year rule, since the lease then involves five years and there is an option for the sixth year. In determining the term of the lease, an option for renewal of the lease is taken into account whether or not the exercise of the option depends upon conditions or contingencies.

(2) If the property is acquired subject to a lease, the term of such lease shall be considered to begin on the date of such acquisition. For example, if an exempt organization purchases, in whole or in part with borrowed funds, real property subject to a 10-year lease which has three years left to run, and such lease contains no right of renewal or extension, the lease shall be considered a 3-year lease and hence does not meet the definition of a business lease in section 514 (b) and paragraph (a) of this section. However, if this lease contains an option to renew for a period of three years or more, it is a business lease.

(3) Under the provisions of section 514 (b) (2) (B) a lease is considered as continuing for more than five years if the same lessee has occupied the premises for a total period of more than five years, whether the occupancy is under one or more leases, renewals, extensions, or con-

tinuations. Continued occupancy shall be considered to be by the same lessee if the occupants during the period are so related that losses in respect of sales or exchanges of property between them would be disallowed under section 267 (a) of the 1954 Code. Such period shall be considered as commencing not earlier than the date of the acquisition of the property by the tax-exempt organization or trust. This rule is applicable only in the sixth and succeeding years of such occupancy by the same lessee. See, however, paragraph (c) (3) of this section.

(c) *Exceptions.* (1) A lease shall not be considered a business lease if such lease is entered into primarily for a purpose which is substantially related (aside from the need of such organization for income or funds, or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption. For example, where a tax-exempt hospital leases real property owned by it to an association of doctors for use as a clinic, the rents derived under such lease would not be included in computing unrelated business taxable income if the clinic is substantially related to the carrying on of hospital functions. See § 1.513-1 for principles applicable in determining whether there is a substantial relationship to the exempt purposes of an organization.

(2) A lease is not a business lease if the lease is of premises in a building primarily designed for occupancy and occupied by the tax-exempt organization.

(3) If a lease for more than five years to a tenant is for only a portion of the real property, and space in the real property is rented during the taxable year under a lease for not more than five years to any other tenant of the tax-exempt organization, all leases of the real property for more than five years shall be considered as business leases during the taxable year only if—

(i) The rents derived from the real property during the taxable year under leases for more than five years represent 50 percent or more of the total rents derived during the taxable year from the real property; or the area of the premises occupied under leases for more than five years represents, at any time during the taxable year, 50 percent or more of the total area of the real property rented at such time; or

(ii) The rent derived from the real property during the taxable year from any tenant under a lease for more than five years, or from a group of tenants (under such leases) who are either members of an affiliated group (as defined in section 1504) or are partners, represents more than 10 percent of the total rents derived during the taxable year from such property; or the area of the premises occupied by any one such tenant, or by any such group of tenants, represents at any time during the taxable year more than 10 percent of the total area of the real property rented at such time.

In determining whether 50 percent or more of the total rents are derived from leases for more than 5 years, or whether

50 percent or more of the total area is occupied under leases for more than 5 years—

(a) An occupancy which is considered to be a lease of more than five years solely by reason of the provisions of paragraph (b) (3) of this section shall not be treated as such a lease for purposes of subdivision (1) of this subparagraph, and

(b) An occupancy which is considered to be a lease of more than five years solely by reason of the provisions of paragraph (b) (3) of this section shall be treated as such a lease for purposes of subdivision (1) of this subparagraph, and

(c) If during the last half of the term of a lease a new lease is made to take effect after the expiration of such lease, the unexpired portion of the first lease will not be added to the second lease to determine whether such second lease is a lease for more than 5 years for purposes of subdivision (1) of this subparagraph.

(4) The application of subparagraph (3) of this paragraph may be illustrated by the following example:

Example. In 1954 an educational organization, which is on the calendar year basis, begins the erection of an 11-story apartment building using funds borrowed for that purpose, and immediately leases for a 10-year term the first floor to a real estate development company to sublet for stores and shops. As fast as the new apartments are completed, they are rented on an annual basis. At the end of 1959 all except the tenth and eleventh floors are rented. Those two floors are completed during 1960 and rented. Assume that for 1954 and each subsequent taxable year through 1959, and for the taxable year 1963, the gross rental for the first floor represents more than 10 percent of the total gross rents derived during the taxable year from the building. Under this set of facts the 10-year lease of the first floor would be considered to be a business lease for all except the taxable years 1961, 1962, and 1964.

§ 1.514 (c) Statutory provisions; business leases; business lease indebtedness.

Sec. 514. Business leases. . . .

(c) *Business lease indebtedness.*—(1) *General rule.* The term "business lease indebtedness" means, with respect to any real property leased for a term of more than 5 years, the unpaid amount of—

(A) The indebtedness incurred by the lessor in acquiring or improving such property;

(B) The indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) The indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

(2) *Property acquired subject to mortgage, etc.* Where real property is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered (whether the acquisition was by gift, devise, or purchase) as an indebtedness of the lessor incurred in acquiring such property even though the lessor did not assume or agree to pay such indebtedness, except that where real property was acquired by gift, bequest, or devise before July 1, 1950, subject to a mortgage or other similar lien, the amount

of such mortgage or other similar lien shall not be considered as an indebtedness of the lessor incurred in acquiring such property.

(3) *Certain property acquired by gift, etc.* Where real property was acquired by gift, bequest, or devise before July 1, 1950, subject to a lease requiring improvements in such property on the happening of stated contingencies, indebtedness incurred in improving such property in accordance with the terms of such lease shall not be considered as an indebtedness for purposes of this subsection.

(4) *Certain corporations described in section 501 (c) (2).* In the case of a corporation described in section 501 (c) (2), all of the stock of which was acquired before July 1, 1950, by an organization described in paragraph (3), (5), or (6) of section 501 (c) (and more than one-third of such stock was acquired by such organization by gift or bequest), any indebtedness incurred by such corporation before July 1, 1950, and any indebtedness incurred by such corporation on or after such date in improving real property in accordance with the terms of a lease entered into before such date, shall not be considered as an indebtedness with respect to such corporation or such organization for purposes of this subsection.

(5) *Certain trusts described in section 401 (a).* In the case of a trust described in section 401 (a), or in the case of a corporation described in section 501 (c) (2) all of the stock of which was acquired prior to March 1, 1954, by a trust described in section 401 (a), any indebtedness incurred by such trust or such corporation before March 1, 1954, in connection with real property which is leased before March 1, 1954, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness with respect to such trust or such corporation for purposes of this subsection.

(6) *Business lease on portion of property.* In determining the amount of the business lease indebtedness where only a portion of the real property is subject to a business lease, proper allocation to the premises covered by such lease shall be made of the indebtedness incurred by the lessor with respect to the real property.

(7) *Special rule applicable to trusts described in section 401 (a).* In the application of paragraph (1), if a trust described in section 401 (a) forming part of a stock bonus, pension, or profit-sharing plan of an employer lends any money to another trust described in section 401 (a) forming part of a stock bonus, pension, or profit-sharing plan of the same employer, such loan shall not be treated as an indebtedness of the borrowing trust, except to the extent that the loaning trust—

(A) Incurs any indebtedness in order to make such loan;

(B) Incurs indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(C) Incurs indebtedness after the making of such loan which would not have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

§ 1.514 (c)-1 *Business lease indebtedness.*—(a) *Definition.* The term "business lease indebtedness" means, with respect to any real property leased by a tax-exempt organization for a term of more than five years, the unpaid amount of—

(1) The indebtedness incurred by the lessor tax-exempt organization in acquiring or improving such property;

(2) The indebtedness incurred by the lessor tax-exempt organization prior to the acquisition or improvement of such

property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(3) The indebtedness incurred by the lessor tax-exempt organization subsequent to the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of the indebtedness was reasonably foreseeable at the time of such acquisition or improvement.

See paragraph (1) of this section with respect to subsidiary corporations.

(b) *Examples.* The rules of section 514 (c) respecting business leases also cover certain cases where the leased property itself is not subject to an indebtedness. For example, they apply to cases such as the following:

Example (1). A university pledges some of its investment securities with a bank for a loan and uses the proceeds of such loan to purchase (either directly or through a subsidiary corporation) a building, which building is subject to a lease that then has more than five years to run. This would be an example of a business lease indebtedness incurred prior to the acquisition of the property which would not have been incurred but for such acquisition.

Example (2). If the building itself in example (1) in this paragraph is later mortgaged to raise funds to release the pledged securities, the lease would continue to be a business lease.

Example (3). If a scientific organization mortgages its laboratory building to replace working capital used in remodeling another one of its buildings or a building held by its subsidiary corporation, which other building is free of indebtedness and is subject to a lease that then has more than five years to run, the lease would be a business lease inasmuch as the indebtedness though incurred subsequent to the improvement of such property would not have been incurred but for such improvement, and the incurrence of the indebtedness was reasonably foreseeable when, to make such improvement, the organization reduced its working capital below the amount necessary to continue current operations.

(c) *Property acquired subject to lien.* Where real property is acquired subject to a mortgage or similar lien, whether the acquisition be by gift, bequest, devise, or purchase, the amount of the indebtedness secured by such mortgage or lien is a business lease indebtedness (unless paragraph (d) (1) of this section applies) even though the lessor does not assume or agree to pay the indebtedness. For example, a university pays \$100,000 for real estate valued at \$300,000 and subject to a \$200,000 mortgage. For the purpose of the tax on unrelated business taxable income the result is the same as if \$200,000 of borrowed funds had been used to buy the property.

(d) *Certain property acquired by gifts, etc.* (1) Where real property was acquired by gift, bequest, or devise, before July 1, 1950, subject to a mortgage or other similar lien, the amount of such mortgage or other similar lien shall not be considered as an indebtedness of the lessor tax-exempt organization incurred in acquiring such property. An indebtedness not otherwise covered by this exception is not brought within the exception by reason of a transfer of the

property between a parent and its subsidiary corporation.

(2) Where real property was acquired by gift, bequest, or devise, before July 1, 1950, subject to a lease requiring improvements in such property upon the happening of stated contingencies, indebtedness incurred in improving such property in accordance with the terms of such lease shall not be considered as indebtedness described in section 514 (c) and in this section. An indebtedness not otherwise covered by this exception is not brought within the exception by reason of a transfer of the property between a parent and its subsidiary corporation.

(e) *Certain corporations described in section 501 (c) (2).* In the case of a title holding corporation described in section 501 (c) (2), all of the stock of which was acquired before July 1, 1950, by an organization described in section 501 (c) (3), (5), or (6) (and more than one-third of such stock was acquired by such organization by gift or bequest), any indebtedness incurred by such corporation before July 1, 1950, and any indebtedness incurred by such corporation on or after such date in improving real property in accordance with the terms of a lease entered into before such date, with respect to either such section 501 (c) (2) corporation or such section 501 (c) (3), (5), or (6) organization, shall not be considered an indebtedness described in section 514 (c) and in this section.

(f) *Certain trusts described in section 401 (a).* In the case of a trust described in section 401 (a), or in the case of a corporation described in section 501 (c) (2) all of the stock of which was acquired before March 1, 1954, by such a trust, any indebtedness incurred by such trust or such corporation before such date, in connection with real property which is leased before such date, and any indebtedness incurred by such trust or such corporation on or after such date necessary to carry out the terms of such lease, shall not be considered as an indebtedness described in section 514 (c) and in this section.

(g) *Business lease on portion of property.* Where only a portion of the real property is subject to a business lease, proper allocation of the indebtedness applicable to the whole property must be made to the premises covered by the lease. See example (2) of paragraph (b) of § 1.514 (a)-1.

(h) *Special rule applicable to trusts described in section 401 (a).* If an employees' trust described in section 401 (a) lends any money to another such employees' trust of the same employer, for the purpose of acquiring or improving real property, such loan will not be treated as an indebtedness of the borrowing trust except to the extent that the loaning trust—

(1) Incurs any indebtedness in order to make such loan;

(2) Incurred indebtedness before the making of such loan which would not have been incurred but for the making of such loan; or

(3) Incurred indebtedness after the making of such loan which would not

have been incurred but for the making of such loan and which was reasonably foreseeable at the time of making such loan.

(i) *Subsidiary corporations.* The provisions of section 514 are applicable whether or not a subsidiary corporation of the type described in section 501 (c) (2) is availed of in making the business lease. For example, assume a parent organization borrows funds to purchase realty and sets up a separate section 501 (c) (2) corporation as a subsidiary to hold the property. Such subsidiary corporation leases the property for a period of more than five years, collects the rents and pays over all of the income, less expenses, to the parent organization, the parent organization being liable for the indebtedness. Under these assumed facts, the lease by the section 501 (c) (2) subsidiary corporation would be a business lease with respect to such subsidiary corporation, and the rental income would be subject to the tax, whether or not the subsidiary itself assumes the indebtedness and whether or not the property is subject to the indebtedness.

§ 1.514 (d) *Statutory provisions; business leases; personal property leased with real property.*

SEC. 514. *Business leases.* * * * (d) *Personal property leased with real property.* For purposes of this section, the term "real property" and the term "premises" include personal property of the lessor leased by it to a lessee of its real estate if the lease of such personal property is made under, or in connection with, the lease of such real estate.

§ 1.515 *Statutory provisions; taxes of foreign countries and possessions of the United States.*

SEC. 515. *Taxes of foreign countries and possessions of the United States.* The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax of an organization subject to the tax imposed by section 511 to the extent provided in section 901; and in the case of the tax imposed by section 511, the term "taxable income" as used in section 901 shall be read as "unrelated business taxable income".

FARMERS' COOPERATIVES

§ 1.521 *Statutory provisions; exemption of farmers' cooperatives from tax.*

SEC. 521. *Exemption of farmers' cooperatives from tax.*—(a) *Exemption from tax.* A farmers' cooperative organization described in subsection (b) (1) shall be exempt from taxation under this subtitle except as otherwise provided in section 522. Notwithstanding section 522, such an organization shall be considered an organization exempt from income taxes for purposes of any law which refers to organizations exempt from income taxes.

(b) *Applicable rules.*—(1) *Exempt farmers' cooperatives.* The farmers' cooperatives exempt from taxation to the extent provided in subsection (a) are farmers', fruit growers', or like associations organized and operated on a cooperative basis (A) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (B) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses.

(2) *Organizations having capital stock.* Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association.

(3) *Organizations maintaining reserve.* Exemption shall not be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(4) *Transactions with nonmembers.* Exemption shall not be denied any such association which markets the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, or which purchases supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 percent of the value of all its purchases.

(5) *Business for the United States.* Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this section.

§ 1.521-1 *Farmers' cooperative marketing and purchasing associations; requirements for exemption under section 521.* (a) (1) *Cooperative associations engaged in the marketing of farm products for farmers, fruit growers, livestock growers, dairymen, etc., and turning back to the producers the proceeds of the sales of their products, less the necessary operating expenses, on the basis of either the quantity or the value of the products furnished by them, are exempt from income tax except as otherwise provided in section 522.* For instance, cooperative dairy companies which are engaged in collecting milk and disposing of it or the products thereof and distributing the proceeds, less necessary operating expenses, among the producers upon the basis of either the quantity or the value of milk or of butterfat in the milk furnished by such producers, are exempt from the tax. If the proceeds of the business are distributed in any other way than on such a proportionate basis, the association does not meet the requirements of the Internal Revenue Code of 1954 and is not exempt. In other words, nonmember patrons must be treated the same as members insofar as the distribution of patronage dividends is concerned. Thus, if products are marketed for nonmember producers, the proceeds of the sale, less necessary operating expenses, must be returned to the patrons from the sale of whose goods such proceeds result, whether or not such patrons are members of the association. In order to show its cooperative nature and to establish compliance with the requirement of the Code that the proceeds of sales, less necessary expenses, be turned back to all producers on the basis of either the quantity

or the value of the products furnished by them, it is necessary for such an association to keep permanent records of the business done both with members and nonmembers. The Code does not require, however, that the association keep ledger accounts with each producer selling through the association. Any permanent records which show that the association was operating during the taxable year on a cooperative basis in the distribution of patronage dividends to all producers will suffice. While under the Code patronage dividends must be paid to all producers on the same basis, this requirement is complied with if an association, instead of paying patronage dividends to nonmember producers in cash, keeps permanent records from which the proportionate shares of the patronage dividends due to nonmember producers can be determined, and such shares are made applicable toward the purchase price of a share of stock or of a membership in the association.

(2) An association which has capital stock will not for such reason be denied exemption (i) if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and (ii) if substantially all of such stock (with the exception noted below) is owned by producers who market their products or purchase their supplies and equipment through the association. Any ownership of stock by others than such actual producers must be satisfactorily explained in the association's application for exemption. The association will be required to show that the ownership of its capital stock has been restricted as far as possible to such actual producers. If by statutory requirement all officers of an association must be shareholders, the ownership of a share of stock by a nonproducer to qualify him as an officer will not destroy the association's exemption. Likewise, if a shareholder for any reason ceases to be a producer and the association is unable, because of a constitutional restriction or prohibition or other reason beyond the control of the association, to purchase or retire the stock of such nonproducer, the fact that under such circumstances a small amount of the outstanding capital stock is owned by shareholders who are no longer producers will not destroy the exemption. The restriction placed on the ownership of capital stock of an exempt cooperative association shall not apply to nonvoting preferred stock, provided the owners of such stock are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends.

(3) The accumulation and maintenance of a reserve required by State statute, or the accumulation and maintenance of a reasonable reserve or surplus for any necessary purpose, such as to provide for the erection of buildings and facilities required in business or for the purchase and installation of machinery and equipment or to retire in-

debtedness incurred for such purposes, will not destroy the exemption. An association will not be denied exemption because it markets the products of nonmembers, provided the value of the products marketed for nonmembers does not exceed the value of the products marketed for members. Anyone who shares in the profits of a farmers' cooperative marketing association, and is entitled to participate in the management of the association, must be regarded as a member of such association within the meaning of section 521.

(b) Cooperative associations engaged in the purchasing of supplies and equipment for farmers, fruit growers, livestock growers, dairymen, etc., and turning over such supplies and equipment to them at actual cost, plus the necessary operating expenses, are exempt. The term "supplies and equipment" as used in section 521 includes groceries and all other goods and merchandise used by farmers in the operation and maintenance of a farm or farmer's household. The provisions of paragraph (a) of this section relating to a reserve or surplus and to capital stock shall apply to associations coming under this paragraph. An association which purchases supplies and equipment for nonmembers will not for such reason be denied exemption, provided the value of the purchases for nonmembers does not exceed the value of the supplies and equipment purchased for members, and provided the value of the purchases made for nonmembers who are not producers does not exceed 15 percent of the value of all its purchases.

(c) In order to be exempt under either paragraph (a) or (b) of this section an association must establish that it has no taxable income for its own account other than that reflected in a reserve or surplus authorized in paragraph (a) of this section. An association engaged both in marketing farm products and in purchasing supplies and equipment is exempt if as to each of its functions it meets the requirements of the Internal Revenue Code of 1954. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under section 521 and this section. An association to be entitled to exemption must not only be organized but actually operated in the manner and for the purposes specified in section 521.

(d) Cooperative organizations engaged in occupations dissimilar from those of farmers, fruit growers, and the like, are not exempt.

(e) An organization is not exempt from taxation under this section merely because it claims that it complies with the requirements prescribed therein. In order to establish its exemption every organization claiming exemption under section 521 is required to file a Form 1028. The Form 1028, executed in accordance with the instructions on the form or issued therewith, should be filed with the district director for the internal revenue district in which is located the principal place of business or principal office of the organization. However, an organization which has been granted ex-

emption under the provisions of the Internal Revenue Code of 1939 or prior law may rely on that ruling, unless affected by substantive changes in the 1954 Code or any changes in the character, purposes, or methods of operation of the organization, and it is not necessary in such case for the organization to request a new determination as to its exempt status.

§ 1.522 Statutory provisions; tax on farmers' cooperatives.

Sec. 522. Tax on farmers' cooperatives.—(a) Imposition of tax. An organization exempt from taxation under section 521 shall be subject to the taxes imposed by section 11 or section 1201.

(b) Computation of taxable income.—(1) General rule. In computing the taxable income of such an organization there shall be allowed as deductions from gross income (in addition to other deductions allowable under this chapter)—

(A) Amounts paid as dividends during the taxable year on its capital stock, and

(B) Amounts allocated during the taxable year to patrons with respect to its income not derived from patronage (whether or not such income was derived during such taxable year) whether paid in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the dollar amount allocated to him. Allocations made after the close of the taxable year and on or before the 15th day of the 9th month following the close of such year shall be considered as made on the last day of such taxable year to the extent the allocations are attributable to income derived before the close of such year.

(2) Patronage dividends, etc. Patronage dividends, refunds, and rebates to patrons with respect to their patronage in the same or preceding years (whether paid in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the dollar amount of such dividend, refund, or rebate) shall be taken into account in computing taxable income in the same manner as in the case of a cooperative organization not exempt under section 521. Such dividends, refunds, and rebates made after the close of the taxable year and on or before the 15th day of the 9th month following the close of such year shall be considered as made on the last day of such taxable year to the extent the dividends, refunds, or rebates, are attributable to patronage occurring before the close of such year.

§ 1.522-1 Tax treatment of farmers' cooperative marketing and purchasing associations exempt under section 521—

(a) In general. (1) Section 522 is applicable to farmers', fruit growers', or like associations organized and operated on a cooperative basis in the manner prescribed in section 521. Although such an association is subject to both normal tax and surtax, as in the case of corporations generally, certain special rules for the computation of taxable income are provided in section 522 (b) and § 1.522-2. For the purpose of any law which refers to organizations exempt from income taxes such an association shall, however, be considered as an organization exempt under section 501. Thus, the provisions of section 243, providing a credit for dividends received from a domestic corporation subject to

taxation, are not applicable to dividends received from a cooperative association subject to section 522. The provisions of section 1501, relating to consolidated returns, are likewise not applicable.

(2) Rules governing the manner in which amounts allocated as patronage dividends, refunds, or rebates are to be taken into account in computing the taxable income of such an association are set forth in § 1.522-3. For the tax treatment, as to patrons, of amounts received during the taxable year as patronage dividends, rebates, or refunds, see section 61 and § 1.61-5.

(b) *Meaning of terms.* For purposes of §§ 1.522-1 to 1.522-3, inclusive, §§ 1.6044-1 and 1.61-5, the following terms shall have the meaning ascribed below:

(1) *Cooperative association.* The term "cooperative association" includes any corporation operating on a cooperative basis and allocating amounts to patrons on the basis of the business done with or for such patrons, except that the term does not include any cooperative or nonprofit corporation (including any cooperative or nonprofit corporation engaged in rural electrification) exempt from taxation under section 501 (a) and described in section 501 (c) (12) or (15) or any corporation subject to a tax imposed by subchapter L (relating to insurance companies).

(2) *Patron.* The term "patron" includes any person with whom or for whom the cooperative association does business on a cooperative basis, whether a member or a nonmember of the cooperative association, and whether an individual, a trust, estate, partnership, company, corporation, or cooperative association.

(3) *Allocation.* The term "allocation" includes distributions made by a cooperative association to a patron in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, similar documents, or in any other manner whereby there is disclosed to a patron the dollar amount apportioned on the books of the association for the account of such patron. Thus, a mere credit to the account of a patron on the books of the cooperative association, without disclosure to the patron, is not an allocation.

(4) *Patronage dividends, rebates, and refunds.* The term "patronage dividend, rebate, or refund" includes any amount allocated by a cooperative association, to the account of a patron on the basis of the business done with or for such patron. The following are not patronage dividends, rebates, or refunds:

(i) Amounts distributed in redemption of capital stock, or in redemption or satisfaction of certificates of indebtedness, revolving fund certificates, retain certificates, letters of advice, or other similar documents;

(ii) Amounts allocated (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, refund, or rebate) by the association for products of members or

other patrons to the extent such amounts are fixed without reference to the earnings of the cooperative association. For this purpose, the term "earnings" includes the excess of amounts retained (or assessed) by the association to cover expenses or other items over the amount of such expenses or other items.

(c) *Examples.* The application of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Cooperative A, a marketing association operating on a pooling basis, receives the products of patron W on January 5, 1954. On the same day Cooperative A advances to W 45 cents per unit for the products so delivered and allocates to him a "retain certificate" having a face value calculated at the rate of 5 cents per unit. During the operation of the pool, and before substantially all the products in the pool are disposed of, Cooperative A advances to W an additional 40 cents per unit, the amount being determined by reference to the market price of the products sold and the anticipated price of the unsold products. At the close of the pool on November 10, 1954, Cooperative A determines the excess of its receipts over the sum of its expenses and its previous advances to patrons, and allocates to W an additional 3 cents per unit and shares of the capital stock of A having an aggregate of face value calculated at the rate of 2 cents per unit.

The amount of patronage dividends, rebates, or refunds allocated to W during 1954 amount to 5 cents per unit, consisting of the aggregate of the following per-unit allocations: The amount of cash distribution (3 cents), and the face value of the capital stock of A (2 cents), which are fixed with reference to the earnings of A. The amount of the two distributions in cash (85 cents) and the face amount of the "retain certificate" (5 cents), which are fixed without reference to the earnings of A, do not constitute patronage dividends, rebates, or refunds.

Example (2). Cooperative B, a marketing association operating on a pooling basis, receives the products of patron X on March 5, 1954. On the same day Cooperative B pays to X \$1.00 per unit for such products, this amount being determined by reference to the market price of the product when received, and issues to him a participation certificate having no face value but which entitles X on the close of the pool to the proceeds derived from the sale of his products less the previous payment of \$1.00 and the expenses and other charges attributable to such products. On March 5, 1957, Cooperative B, having sold the products in the pool, having deducted the previous payments for such products, and having determined the expenses and other charges of the pool, redeems the participation certificate of X in cash for 10 cents per unit. The allocation made to X during 1957, amounting to 10 cents per unit, is a patronage dividend, rebate, or refund. Neither the payment to X in 1954 of \$1.00 nor the issuance to him of the participation certificate in that year constitutes a patronage dividend, rebate, or refund within the meaning of this section.

Example (3). Cooperative C, a purchasing association, obtains supplies for patron Y on May 1, 1954, and receives in return therefor \$100. On February 1, 1955, Cooperative C, having determined the excess of its receipts over its costs and expenses, allocates to Y a cash distribution of \$1.00 and a revolving fund certificate of a face amount of \$1.00. The amount of patronage dividends, rebates, or refunds allocated to Y for 1955 is \$2.00, the aggregate of the cash distribution, of \$1.00, and the face amount, \$1.00, of the revolving fund certificate.

Example (4). Cooperative D, a service association, sells the products of members on a fee basis. It receives the products of patron

Z under an agreement not to pool his products with those of other members, to sell his products, and to deliver to him the proceeds of the sale. Patron Z makes payments to Cooperative D during 1954 aggregating \$75 for service rendered him by Cooperative D during that year. On May 15, 1955, Cooperative D, having determined the excess of its receipts over its costs and expenses, allocates to Z a cash distribution of \$2.00. Such amount is a patronage dividend, rebate, or refund allocated by Cooperative D during 1955.

(d) *Returns of exempt cooperative associations.* For requirements of annual returns by exempt cooperative associations, see sections 6012 and 6072 (d) and paragraph (f) of § 1.6012-2.

§ 1.522-2 *Manner of taxation of cooperative associations subject to section 522—(a) In general.* Farmers', fruit growers', or like associations, organized and operated in compliance with the requirements of section 521 and § 1.521-1 shall be subject to the taxes imposed by section 11 or section 1201, except that there shall be allowed as deductions from gross income, in addition to the other deductions allowable under chapter 1, certain special deductions provided in section 522 (b) (1) (A) and paragraph (c) of this section, and section 522 (b) (1) (B) and paragraph (d) of this section. Amounts allocated as patronage dividends, refunds, or rebates, whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the dollar amount allocated, with respect to patronage for the taxable year or for preceding taxable years, shall be taken into account in the manner provided in section 522 and in § 1.522-3.

(b) *Cooperative association exempt from tax before January 1, 1952.* (1) For the purpose of determining the method of accounting under section 446 in the case of a cooperative association which was exempt from tax for taxable years beginning prior to January 1, 1952, the method of accounting, recognized under sections 41, 42, and 43 of the Internal Revenue Code of 1939 and the regulations prescribed thereunder and utilized in the return of such association for its last taxable year to which the Internal Revenue Code of 1939 was applicable, shall be deemed to constitute the method of accounting regularly employed by the cooperative association. Any change from this method may be made only if permission is obtained from the Commissioner to change to another recognized method in accordance with section 446 and the regulations thereunder.

(2) In any case where inventories are an income-producing factor, see sections 471 and 472 and the regulations thereunder. The elective method of inventorying goods provided in section 472 may be adopted by the cooperative association for any taxable year beginning after December 31, 1953, in accordance with the requirements of section 472 and the regulations thereunder. However, in order to use such method for such a taxable year the cooperative association (unless it has used such method for a taxable year beginning after 1951 and before 1954 pursuant to an election exer-

elised as provided in § 39.22 (d)-3 of this subchapter (Regulations 118)) must exercise the election provided in section 472 and the regulations thereunder, even if it may have utilized such method for accounting purposes for taxable years beginning before January 1, 1952.

(3) The following rules shall be applicable in computing the net operating loss deduction provided in section 172: No net operating loss carryover shall be allowed from a taxable year beginning prior to January 1, 1952, for which the cooperative association was exempt from tax under section 101 (12) of the 1939 Code. In the case of a taxable year beginning prior to January 1, 1952, for which the association was not exempt under section 101 (12) of the 1939 Code and of any taxable year beginning after December 31, 1951, the amount of the net operating loss carryback or carryover from such year shall not be reduced by reference to the income of any taxable year beginning prior to January 1, 1952, for which the association was exempt from tax under section 101 (12) of the 1939 Code. However, any taxable year beginning prior to January 1, 1952, for which the cooperative association was exempt under section 101 (12) of the 1939 Code shall be taken into account in determining the period for which a net operating loss may be carried back or carried over, as the case may be.

(4) The adjustments to the cost or other basis provided in sections 1011 and 1016 and the regulations thereunder, are applicable for the entire period since the acquisition of the property. Thus, proper adjustment to basis must be made under section 1016 for depreciation, obsolescence, amortization and depletion for all taxable years beginning prior to January 1, 1952, although the cooperative association was exempt from tax under section 521 or corresponding provisions of prior law for such years. However, no adjustment for percentage or discovery depletion is to be made for any year during which the association was exempt from tax. If a cooperative association has made a proper election in accordance with section 1020 and the regulations prescribed thereunder with respect to a taxable year beginning before 1952 in which the association was not exempt from tax, the adjustment to basis for depreciation for such years shall be limited in accordance with the provisions of section 1016 (a) (2).

(5) In the case of tax exempt and partially taxable bonds purchased at a premium and subject to amortization under section 171, proper adjustment to basis must be made to reflect amortization with respect to such premium from the date of acquisition of the bond. (For principles governing the method of computation, see the example in paragraph (b) of § 1.1016-9, relating to mutual savings banks, building and loan associations, and cooperative banks.) The basis of a fully taxable bond purchased at a premium shall be adjusted from the date of the election to amortize such premium in accordance with the provisions of section 171 except that no adjustment shall be allowable for such portion of the premium attributable to the period prior to the election.

(6) In the case of a mortgage acquired at a premium where the principal of such mortgage is payable in installments, adjustments to the basis for the premium must be made for all taxable years (whether or not the association was exempt from tax under section 521 during such years) in which installment payments are received. Such adjustments may be made on an individual mortgage basis or on a composite basis by reference to the average period of payments of the mortgage loans of such association. For the purpose of this adjustment, the term "premium" includes the excess of the acquisition value of the mortgage over its maturity value. The acquisition value of the mortgage is the cost including buying commissions, attorneys' fees or brokerage fees, but such value does not include amounts paid for accrued interest.

(c) *Deduction for dividends paid.* There is allowable as a deduction from the gross income of a cooperative association operated in compliance with the requirements of section 521 and § 1.521-1, amounts paid as dividends during the taxable year upon the capital stock of the cooperative association. For the purpose of the preceding sentence, the term "capital stock" includes common stock (whether voting or nonvoting), preferred stock, or any other form of capital represented by capital retain certificates, revolving fund certificates, letters of advice, or other evidence of a proprietary interest in a cooperative association. Such deduction is applicable only to the taxable year in which the dividends are actually or constructively paid to the holder of capital stock or other proprietary interest of the cooperative association. If a dividend is paid by check and the check bearing a date within the taxable year is deposited in the mail, in a cover properly stamped and addressed to the shareholder at his last known address, at such time that in the ordinary handling of the mails the check would be received by such holder within the taxable year, a presumption arises that the dividend was paid to such holder in such year. The determination of whether a dividend has been paid to such holder by the corporation during its taxable year is in no way dependent upon the method of accounting regularly employed by the corporation in keeping its books. For further rules as to the determination of the right to a deduction for dividends paid, under certain specific circumstances, see section 561 and the regulations thereunder.

(d) *Deduction for amounts allocated from income not derived from patronage.* There is allowable as a deduction from the gross income of a cooperative association operated in compliance with the requirements of section 521 and § 1.521-1 amounts allocated during the taxable year to patrons with respect to its income not derived from patronage (whether or not such income was derived during such taxable year) whether such amounts are paid in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the dollar amount allocated to

him. For this purpose, allocations made after the close of the taxable year and on or before the 15th day of the ninth month following the close of the taxable year shall be considered as made on the last day of such taxable year to the extent that such allocations are attributable to income derived during the taxable year or during years prior to the taxable year. As used in this paragraph, the term "income not derived from patronage" means incidental income derived from sources not directly related to the marketing, purchasing, or service activities of the cooperative association. For example, income derived from the lease of premises, from investment in securities, from the sale or exchange of capital assets, constitutes income not derived from patronage. Business done with the United States shall constitute income not derived from patronage. In order that the deduction for income not derived from patronage may be applicable, it is necessary that the amount sought to be deducted be allocated on a patronage basis in proportion, insofar as is practicable, to the amount of business done by or for patrons during the period to which such income is attributable. Thus, if capital gains are realized from the sale or exchange of capital assets acquired and disposed of during the taxable year, income realized from such gains must be allocated to patrons of such year in proportion to the amount of business done by such patrons during the taxable year. Similarly, if capital gains are realized by the association from the sale or exchange of capital assets held for a period of more than one taxable year income realized from such gains must be allocated, in proportion insofar as is practicable, to the patrons of the taxable years during which the asset was owned by the association, and to the amount of business done by such patrons during such taxable years.

§ 1.522-3 *Patronage dividends, rebates, or refunds; treatment as to cooperative associations entitled to tax treatment under section 522—(a) General rule.* Patronage dividends, refunds, or rebates, allocated by a cooperative association entitled to tax treatment under section 522 to a patron shall be taken into account in computing the gross income of such association for the taxable year, as an increase in its other cost of goods sold in the case of an association marketing products for patrons, or as a reduction in its gross receipts, in the case of an association purchasing supplies and equipment or performing services for patrons, as the case may be, if:

(1) The allocation is made in fulfillment and satisfaction of a valid obligation of such association to the patron, which obligation was in existence prior to the receipt by the cooperative association of the amount allocated, and

(2) The allocation is made on or before the 15th day of the ninth month following the close of the taxable year in which the amounts allocated were received by the cooperative association.

For the purpose of subparagraph (1) of this paragraph, amounts allocated by a cooperative association entitled to tax

treatment under section 522 will be deemed allocated in fulfillment and satisfaction of a valid enforceable obligation, if made pursuant to provisions of the by-laws, articles of incorporation, or other contract, whereby the association is obligated to make such allocation after the retention of "reasonable reserves" and after payment of dividends on capital stock or other proprietary capital interests. Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, amounts allocated as patronage dividends, refunds, or rebates during the taxable year, on or before the 15th day of the ninth month following the close of such year, with respect to patronage for years preceding the taxable year, shall be taken into account as an increase in its other cost of goods sold, or as a reduction in gross receipts, for the taxable year, as the case may be, where retention as "reasonable reserves" of the amounts so allocated beyond the year in which earned was proper in accordance with the provisions of section 521 and where the allocation is made to the patron on a patronage basis in proportion insofar as is practicable, to the amount of business done by such patrons during the taxable year or years in which the retained amounts were received by the cooperative association.

(b) *Examples.* This section may be illustrated by the following examples:

Example (1). E, a cooperative association entitled to tax treatment under section 522, organized without capital stock, is engaged in the business of marketing products for its patrons on a non-pool basis. The by-laws of Cooperative E provide that there shall be allocated to patrons as patronage dividends within a reasonable time following the close of the year all of the gross returns from sales, less expenses of operation for the year and amounts retained as "reasonable reserves" necessary to the operation of Cooperative E. At the close of the taxable year, 1954, it is determined that from the gross returns from sales less operating expenses and all taxes for such year, \$5,000 is to be retained as "reasonable reserves" for various necessary purposes of Cooperative E. It is assumed that the retention of such amount is proper in accordance with the provisions of section 521. Such \$5,000 is apportioned on the books of Cooperative E to patrons of 1954 on a patronage basis, or permanent records are kept from which an apportionment to such patrons can be made. On March 1, 1955, pursuant to the terms of the by-laws, \$200,000, the balance of the gross returns for the taxable year, is allocated to patrons of 1954 on the basis of patronage. \$100,000 of such \$200,000 is allocated in cash. The remaining \$100,000 is allocated in "retain certificates", bearing no interest and redeemable in the discretion of the Board of Directors of Cooperative E.

There may be added to the cost of goods sold by Cooperative E for 1954, \$200,000 (\$100,000 in cash, \$100,000 in retain certificates), the total amount allocated as patronage dividends, rebates, or refunds in fulfillment and satisfaction of the obligation of the by-laws, on March 1, 1955, before the 15th day of the ninth month following the close of 1954. There may not be added to the cost of goods sold by Cooperative E for 1954, \$5,000, the amount retained as reserves apportioned on the books, but not allocated as patronage dividends, rebates, or refunds.

Example (2). The facts are the same as example (1), it additionally appearing that

at the close of 1955 it is determined by Cooperative E to allocate as cash patronage dividends, rebates, or refunds to patrons of 1954, \$5,000, the amount retained as "reasonable reserves" for 1954 in accordance with the provisions of section 521. On March 1, 1956, such amount is allocated.

There may be added to the cost of goods sold by Cooperative E for 1955, \$5,000, the amount allocated with respect to patronage of a preceding year, 1954, properly maintained as a reserve under section 521.

SHIPOWNERS' PROTECTION AND INDEMNITY ASSOCIATIONS

§ 1.526 Statutory provisions; shipowners' protection and indemnity associations.

Sec. 526. *Shipowners' protection and indemnity associations.* There shall not be included in gross income the receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax on their taxable income from interest, dividends, and rents.

INCOME TAX RETURNS

§ 1.6012 Statutory provisions; persons required to make returns of income; general.

Sec. 6012. *Persons required to make returns of income.*—(a) *General rule.* Returns with respect to income taxes under subtitle A shall be made by the following:

(1) Every individual having for the taxable year a gross income of \$600 or more (except that any individual who has attained the age of 65 before the close of his taxable year shall be required to make a return only if he has for the taxable year a gross income of \$1,200 or more);

(2) Every corporation subject to taxation under subtitle A;

(3) Every estate the gross income of which for the taxable year is \$600 or more;

(4) Every trust having for the taxable year any taxable income, or having gross income of \$600 or over, regardless of the amount of taxable income; and

(5) Every estate or trust of which any beneficiary is a nonresident alien;

except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary or his delegate, nonresident alien individuals subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section.

(b) *Returns made by fiduciaries and receivers.*—(1) *Returns of decedents.* If an individual is deceased, the return of such individual required under subsection (a) shall be made by his executor, administrator, or other person charged with the property of such decedent.

(2) *Persons under a disability.* If an individual is unable to make a return required under subsection (a) or section 6015 (a), the return of such individual shall be made by a duly authorized agent, his committee, guardian, fiduciary or other person charged with the care of the person or property of such individual. The preceding sentence shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of an individual.

(3) *Receivers, trustees and assignees for corporations.* In a case where a receiver, trustee in bankruptcy, or assignee, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession

of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return of income for such corporation in the same manner and form as corporations are required to make such returns.

(4) *Returns of estates and trusts.* Returns of an estate or a trust shall be made by the fiduciary thereof.

(5) *Joint fiduciaries.* Under such regulations as the Secretary or his delegate may prescribe, a return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this paragraph shall contain a statement that the fiduciary has sufficient knowledge of the affairs of the person for whom the return is made to enable him to make the return, and that the return is, to the best of his knowledge and belief, true and correct.

(c) *Consolidated returns.* For provisions relating to consolidated returns by affiliated corporations, see chapter 6.

§ 1.6012-2 Corporations required to make returns of income.

(a)–(d) [Reserved.]

(e) *Charitable and other organizations with unrelated business income.* Every organization, described in section 501 (c) (2), (3), (5), and (6), which is otherwise exempt from tax under section 501 (a), and which is subject to the tax imposed on unrelated business taxable income by section 511 (a) (1), shall make a return on Form 990-T for each taxable year if it has gross income, included in computing unrelated business taxable income for such taxable year, of \$1,000 or more. A return on Form 990-T shall also be made for each taxable year by every governmental college or university and by every corporation wholly owned by such a college or university, which is subject to the tax on unrelated business taxable income and which has gross income, included in computing unrelated business taxable income for such taxable year, of \$1,000 or more. The filing of a return of unrelated business income does not relieve the organization of the duty of filing other required returns.

(f) *Farmers' cooperatives.* Farmers' cooperative organizations described in section 521 are required to make a return of income whether or not such organizations are, under section 522, subject to the taxes imposed by section 11 or section 1201. The return shall be made on Form 990-C.

§ 1.6012-3 Returns by fiduciaries—

(a) *For estates and trusts.*

(1)–(4) [Reserved.]

(5) *Trusts with unrelated business income.* Every fiduciary for a trust, described in section 501 (c) (3), or section 401 (a), which is otherwise exempt from tax under section 501 (a), and which is subject to the tax imposed on unrelated business taxable income by section 511 (b) (1), shall make a return on Form 990-T for each taxable year if the trust has gross income, included in computing unrelated business taxable income for such taxable year, of \$1,000 or more. The filing of a return of unrelated business income does not relieve the fiduciary of such trust from the duty of filing other required returns.

INFORMATION RETURNS

§ 1.6033 Statutory provisions; returns by exempt organizations.

Sec. 6033. *Returns by exempt organizations.*—(a) *General.* Every organization, except as hereinafter provided, exempt from taxation under section 501 (a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the provisions of subtitle A as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations, as the Secretary or his delegate may from time to time prescribe, except that, in the discretion of the Secretary or his delegate, an organization described in section 401 (a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization. No such annual return need be filed under this subsection by any organization exempt from taxation under the provisions of section 501 (a)—

(1) Which is a religious organization described in section 501 (c) (3); or

(2) Which is an educational organization described in section 501 (c) (3), if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; or

(3) Which is a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501 (c) (3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public; or

(4) Which is an organization described in section 501 (c) (3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in paragraph (1); or

(5) Which is an organization described in section 501 (c) (8); or

(6) Which is an organization described in section 501 (c) (1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) *Certain organizations described in section 501 (c) (3).* Every organization described in section 501 (c) (3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements out of income within the year for the purposes for which it is exempt,

(4) Its accumulation of income within the year,

(5) Its aggregate accumulations of income at the beginning of the year,

(6) Its disbursements out of principal in the current and prior years for the purposes for which it is exempt, and

(7) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year.

(c) *Cross reference.* For provisions relating to statements, etc., regarding exempt status of organizations, see section 6001.

§ 1.6033-1 *Returns by exempt organizations.*—(a) *In general.* (1) Except as provided in section 6033 (a) and para-

graph (g) of this section, every organization exempt from taxation under section 501 (a) shall file an annual return of information specifically stating its items of gross income, receipts and disbursements, and such other information as may be prescribed in the instructions issued with respect to the return. Such information return shall be filed annually regardless of the amount or source of the income or receipts of the organization. Except as provided in paragraph (d) of this section, such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

(2) Every organization exempt from taxation under section 501 (a), and required to file a return under section 6033 and this section, other than those described in sections 401 (a), 501 (c) (3), and 501 (d), shall file its annual return on Form 990.

(3) Every employees' trust described in section 401 (a) which is exempt from taxation under section 501 (a) shall file an annual return on Form 990-P. The return shall include the information required by paragraph (b) (5) (ii) of § 1.401-1. The trust must also file the information required by § 1.404 (a)-2, unless the employer has notified the trustee that he has or will timely file such information. If the trustee has received such notification from the employer, then the trust must file a copy thereof with its return and the other information required by the return.

(4) (i) Every organization described in section 501 (c) (3), which is exempt from taxation under section 501 (a), and which is required to file a return under section 6033 and this section, shall file its annual return on Form 990-A.

(ii) In addition to the information required by subparagraph (i) of this paragraph, there shall also be furnished on Form 990-A, in the manner prescribed in the instructions issued with respect to the return, the information required by section 6033 (b). See section 6104 and the regulations thereunder for publicity of information required by section 6033 (b).

(5) (i) Every religious or apostolic association or corporation described in section 501 (d) which is exempt from taxation under section 501 (a) shall file a return on Form 1065 for each taxable year, stating specifically the items of gross income and deductions, and its taxable income. There shall be attached to the return as a part thereof a statement showing the name and address of each member of the association or corporation and the amount of his distributive share of the taxable income of the association or corporation for such year.

(ii) If the taxable year of any member is different from the taxable year of the association or corporation, the distributive share of the taxable income of the association or corporation to be included in the gross income of the member for his taxable year shall be based upon the taxable income of the association or corporation for its taxable year ending with or within the taxable year of the member.

(b) *Accounting period for filing return.* A return on Form 990, Form 990-A,

or Form 990-P shall be on the basis of the established annual accounting period of the organization. Where the organization has no such established accounting period, such return shall be on the basis of the calendar year.

(c) *Returns when exempt status not established.* An information return on Form 990 or Form 990-A is not required to be filed by an organization claiming an exempt status under section 501 (a) prior to the establishment by the organization of such exempt status under section 501 (a) and § 1.501 (a)-1. If the date for filing an income tax return and paying the tax occurs before the tax-exempt status of the organization has been established, the organization is required to file the return and pay the tax. However, see sections 6081 and 6161 and the regulations thereunder for extensions of time for filing the return and paying the tax. Upon establishment of its exempt status, the organization may file a claim for a refund of income taxes paid for the period for which its exempt status is established.

(d) *Group returns.* (1) A central, parent, or like organization (referred to in this paragraph as "central organization"), exempt under section 501 (a) and described in section 501 (c), although required to file a separate annual return for itself under section 6033 and paragraph (a) of this section, may file annually, in addition to such separate annual return, a group return on Form 990 or Form 990-A as may be appropriate (see paragraph (a) of this section). Such group return may be filed for two or more of the local organizations, chapters, or the like (referred to in this paragraph as "local organizations") which are (i) chartered by, or affiliated or associated with, such central organization at the close of its annual accounting period, (ii) subject to the general supervision of, and examination by, the central organization, and (iii) exempt from taxation under section 501 (a) and described by the same provision of section 501 (c) as the central organization.

(2) (i) The filing of the group return shall be in lieu of the filing of a separate return by each of the local organizations included in the group return. The group return shall include only those local organizations which in writing have authorized the central organization to include them in the group return, and which have made and filed, with the central organization, their statements, specifically stating their items of gross income, receipts, and disbursements, and such other information relating to them as is required to be stated in the group return. Such an authorization by a local organization shall be made annually, under the penalties of perjury, and shall be signed by a duly authorized officer of the local organization in his official capacity and shall contain the following statement, or a statement of like import: "I hereby declare under the penalties of perjury that this authorization (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete and made in good faith for the taxable year

stated." Such authorizations and statements shall be permanently retained by the central organization.

(ii) There shall be attached to the group return and made a part thereof a schedule showing the name and address of each of the local organizations and the total number thereof included in such return, and a schedule showing the name and address of each of the local organizations and the total number thereof not included in the group return. Prior to or simultaneously with the filing of a group return for an accounting period ending on or after December 31, 1957, the central organization shall notify each district director for the internal revenue district in which is located the principal place of business or principal office of each local organization included in or excluded from such group return that the local organization has or has not been, or will or will not be, included in such group return. The filing with each district director concerned of a copy of each schedule described in this subdivision shall constitute notice as required by the preceding sentence.

(3) The group return shall be on the basis of the established annual accounting period of the central organization. Where such central organization has no established annual accounting period, such return shall be on the basis of the calendar year. The same income, receipts, and disbursements of a local organization shall not be included in more than one group return.

(4) The group return shall be filed in accordance with these regulations and the instructions issued with respect to Form 990 or Form 990-A, whichever is appropriate, and shall be considered the return of each local organization included therein. The tax-exempt status of a local organization must be established before a group return including the local organization will be considered as the return of the local organization. See § 1.501 (a)-1 for requirements for establishing a tax-exempt status.

(e) *Time and place for filing.* The annual return of information on Form 990, 990-A, or 990-P shall be filed on or before the fifteenth day of the fifth calendar month following the close of the period for which the return is required to be filed. The annual return on Form 1065 required to be filed by a religious or apostolic association or corporation shall be filed on or before the fifteenth day of the fourth month following the close of the taxable year for which the return is required to be filed. Each such return shall be filed with the district director for the internal revenue district in which the principal place of business or principal office of the organization is located.

(f) *Penalties.* For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207.

(g) *Organizations not required to file annual returns.* (1) (i) Annual returns on Form 990-A are not required to be filed by an organization described in section 501 (c) (3) which has established

its right to exemption from taxation under section 501 (a) and which is—

(a) Organized and operated exclusively for religious purposes;

(b) Operated, supervised, or controlled by or in connection with an organization which is organized and operated exclusively for religious purposes;

(c) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; or

(d) A charitable organization, or an organization for the prevention of cruelty to children or animals, which is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or which is primarily supported by contributions of the general public.

(ii) An educational organization which normally maintains and has a regular faculty, curriculum, and student body and meets the conditions of subdivision (i) (c) of this subparagraph, which relieves it from the requirement of filing annual returns, shall not be considered as having thereafter failed to continue meeting such conditions if it is temporarily compelled to curtail or discontinue its normal and regular activities during the existence of abnormal circumstances and conditions.

(iii) An organization organized and operated exclusively for charitable purposes or for the prevention of cruelty to children or animals is not "primarily supported by contributions of the general public" for any accounting period if more than 50 percent of its income and receipts for such period is not actually derived from voluntary contributions and gifts made by the general public, as distinguished from a few contributors or donors or from related or associated persons. For purposes of this subdivision, the words "related or associated persons" refer to persons of a particular group who are connected with or are interested in the activities of the organization, such as founders, incorporators, shareholders, members, fiduciaries, officers, employees, or the like, or who are connected with such persons by family or business relationships.

(2) The annual return on Form 990 need not be filed by—

(i) A fraternal beneficiary society, order, or association, described in section 501 (c) (8), or

(ii) An organization described in section 501 (c) (1) if it is a corporation wholly owned by the United States or any agency or instrumentality thereof, or is a wholly owned subsidiary of such a corporation,

which has established its exemption from tax under section 501 (a).

(3) The provisions of section 6033 (a) relieving certain specified types of organizations exempt from tax under section 501 (a) from filing annual returns do not abridge or impair in any way the powers and authority of district directors provided for in other provisions of the Code and in the regulations thereunder

to require the filing of such returns by such organizations. See section 6001 and § 1.6001-1.

(h) *Records, statements, and other returns of tax-exempt organizations.* (1) An organization which has established its right to exemption from tax under section 501 (a) and has also established that it is not required to file annually the return of information on Form 990 or Form 990-A shall immediately notify in writing the district director for the internal revenue district in which its principal office is located of any changes in its character, operations, or purpose for which it was originally created.

(2) Every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F of chapter 1 (section 501 and following) and of section 6033. See section 6001 and § 1.6001-1 with respect to the authority of the district director to require such additional information and with respect to the permanent books of account or records to be kept by such organizations.

(3) An organization which has established its right to exemption from tax under section 501 (a), including an organization which is relieved under section 6033 and this section from filing annual returns of information, is not, however, relieved from the duty of filing other returns of information. See, for example, sections 6041 and 6051 and the regulations thereunder.

(i) *Unrelated business tax returns.* In addition to the foregoing requirements of this section, certain organizations otherwise exempt from tax under section 501 (a) and described in section 501 (c) (2), (3), (5), or (6) or section 401 (a) which are subject to tax on unrelated business taxable income are also required to file returns on Form 990-T. See paragraph (e) of § 1.6012-2 and paragraph (a) (5) of § 1.6012-3 for requirements with respect to such returns.

PAR. 2. Paragraph (e) of § 1.401-1 of the Income Tax Regulations (26 CFR 1.401-1 (e)), as prescribed by Treasury Decision 6203 (21 F. R. 7269), approved September 24, 1956, is amended to read as follows:

(e) *Determination of exemptions and returns.* (1) An employees' trust may request a determination letter as to its qualification under section 401 and exemption under section 501. For the procedure for obtaining such a determination letter see paragraph (1) of § 601.201 of this chapter (Statement of Procedural Rules).

(2) A trust which qualifies under section 401 (a) and which is exempt under section 501 (a) must file a return in accordance with section 6033 and the regulations thereunder. See § 1.6033-1. In case such a trust realizes any unrelated business taxable income, as defined in section 512, such trust is also required

to file a return with respect to such income. See § 1.6012-3.

(Sec. 7805, 68A Stat. 917; 28 U. S. C. 7805)

[SEAL] RUSSELL O. HARRINGTON,
Commissioner of Internal Revenue.

Approved: July 2, 1958.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F. R. Doc. 58-5219; Filed, July 8, 1958;
8:50 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 521—EMPLOYMENT OF APPRENTICES

PROCEDURE FOR EMPLOYMENT OF AN APPRENTICE AT SUBMINIMUM WAGES

Pursuant to authority under section 14 of the Fair Labor Standards Act, of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. 214), Reorganization Plan No. 8 of 1950 (64 Stat. 1263; 3 CFR, 1950 Supp., p. 165), and General Orders Nos. 45-A (15 F. R. 3290) and 85-A (22 F. R. 7614) of the Secretary of Labor, and in accordance with the requirements of the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001 et seq.), I hereby amend the second paragraph of § 521.5 of Title 29, Code of Federal Regulations, Part 521, by deleting therefrom the words "two true copies" contained in requirement (c) and inserting in lieu thereof the words "one true copy".

(Sec. 14, 52 Stat. 1068, as amended; 29 U. S. C. 214)

This amendment shall become effective upon publication in the FEDERAL REGISTER, notice thereof having been found unnecessary since the change is minor in nature and will decrease rather than increase the burden of complying with the requirements of this part. No delay in the effective date appears necessary for the same reasons.

Signed at Washington, D. C., this 3d day of July 1958.

CLARENCE T. LUNDQUIST,
Acting Administrator.

[F. R. Doc. 58-5233; Filed, July 8, 1958;
8:50 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 104—BRISTOL BAY AREA

WEEKLY CLOSED PERIODS

JULY 7, 1958.

Basis and purpose. On the basis of continued field observations of catches and escapements in the Bristol Bay area, it has been determined that notwithstanding the gear timetable contained in paragraph (a) of § 104.9, continued improvement in the runs in the Nushagak, Egegik, and Ugashik districts can permit some additional fishing time. Conversely, however, the continued near

failure in the Naknek-Kvichak district makes further restrictions necessary.

Therefore, notwithstanding the provisions of paragraphs (a) and (d) of § 104.9, fishing will be permitted in the week ending July 12, 1958 in the Nushagak, Egegik, and Ugashik districts from 9 a. m. July 7 to 3 p. m. July 8 and from 9 a. m. July 10 to 3 p. m. July 11; and in the Naknek-Kvichak district from 9 a. m. July 7 to 3 a. m. July 8 and from 9 a. m. July 10 to 3 a. m. July 11.

In accordance with the provisions of paragraph (a) of § 104.9, announcement is made that the number of units of gear registered for the week ending July 12, 1958 is as follows:

Naknek-Kvichak—324 units.
Nushagak—271 units.
Egegik—112 units.
Ugashik—70 units.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

Since in the case of the Naknek-Kvichak district, immediate action is necessary to protect the runs and immediate action is also necessary to permit full utilization of the runs in the Nushagak, Egegik, and Ugashik districts, notice and public procedure on these amendments are neither practicable nor in the public interest. These amendments shall become effective immediately upon publication in the FEDERAL REGISTER. (60 Stat. 237; 5 U. S. C. 1001 et seq.)

A. W. ANDERSON,
Acting Director,
Bureau of Commercial Fisheries.

[F. R. Doc. 58-5244; Filed, July 7, 1958;
1:26 p. m.]

PROPOSED RULE MAKING

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

NOTICE OF ORAL ARGUMENT REGARDING VARIATION IN SALES LOAD OF REDEEMABLE SECURITIES OF REGISTERED INVESTMENT COMPANY

JULY 2, 1958.

On May 28, 1958, the Commission issued Investment Company Act Release No. 2718 inviting all interested persons to submit comments on its proposed Rule N-22D-1 relating to permissible variations in the sales load charged upon the sale of the redeemable securities of registered investment companies. Pursuant to this invitation, the Commission has received a number of written communications from various investment companies, state regulatory authorities, trade groups, and others, setting forth their views, comments and recommendations concerning the proposed Rule N-22D-1. It also has received several requests for an opportunity to present oral argument to the Commission on the proposed rule.

The Commission deems it appropriate that an opportunity to be heard be extended to all interested persons:

Notice is hereby given that oral argument before the Commission on the proposed Rule N-22D-1 under the Investment Company Act of 1940 will be held on July 23, 1958, at 10:00 a. m., e. d. s. t., in the offices of the Commission, 425 Second Street NW., Washington 25, D. C. Any person desiring to be heard on such matter should file with the Secretary of the Commission on or before July 22, 1958, his written request or application therefor, and should limit his request for time to make oral presentation so as to provide an opportunity for all interested persons to be heard.

It is ordered, That the Secretary of the Commission give notice of such oral argument, by first-class mail, to all persons who have heretofore submitted written views and comments to the Commission with respect to this matter. Notice shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the Investment Company Act of 1940, and by publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 58-5205; Filed, July 8, 1958;
8:47 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 608, 609, 610, 611, 612]

[Administrative Order 511]

INDUSTRY COMMITTEES Nos. 40-A, 40-B, 40-C, 40-D, and 40-E

RESIGNATION AND APPOINTMENT OF EMPLOYEE MEMBER

Morris Bialis of Chicago, Illinois has resigned as an employee representative on Industry Committees Nos. 40-A, 40-B, 40-C, 40-D, and 40-E. The Secretary of Labor, pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), hereby appoints Shelley Appleton of New York, New York to serve on said Committees as an employee representative.

Signed at Washington, D. C., this 2d day of July 1958.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F. R. Doc. 58-5234; Filed, July 8, 1958;
8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MONTANA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 30, 1958.

The United States Forest Service, Department of Agriculture, has filed an application, Serial No. M-028307, for the withdrawal of the lands described below, from location and entry under the general mining laws, subject to existing valid claims. The applicant desires the land for a public recreational area in the Kaniksu National Forest.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 1245 North 25th Street, Billings, Montana.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MONTANA PRINCIPAL MERIDIAN

KANIKSU NATIONAL FOREST

Jack Pine Flats Recreation Area

T. 22 N., R. 32 W.

Unsurveyed, but when surveyed will probably be:

The subdivisions of Section 12, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$; S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$; NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described aggregate approximately 65 acres.

R. D. NIELSON,
State Supervisor.

[F. R. Doc. 58-5198; Filed, July 8, 1958; 8:46 a. m.]

MONTANA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JUNE 30, 1958.

The United States Forest Service, Department of Agriculture, has filed an application, Serial No. M-024160, for the withdrawal of the lands described below, from location and entry under the general mining laws, subject to existing valid claims. The applicant desires the land for a public recreational area in the Kaniksu National Forest.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management,

Department of the Interior, 1245 North 25th Street, Billings, Montana.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

MONTANA PRINCIPAL MERIDIAN

KANIKSU NATIONAL FOREST

Bull River Bay Recreation Area

T. 26 N., R. 33 W.

Sec. 10: W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing 32.50 acres.

R. D. NIELSON,
State Supervisor.

[F. R. Doc. 58-5199; Filed, July 8, 1958; 8:46 a. m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1958, Supp. 187]

GREAT AMERICAN INSURANCE CO.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

JULY 2, 1958.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U. S. C. sec. 6-13, as an acceptable surety on Federal bonds. An underwriting limitation of \$13,688,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issued of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D. C.

Name of company, location of principal executive office and State in which incorporated. Great American Insurance Company, New York, New York.

[SEAL]

JULIAN B. BAIRD,

Acting Secretary of the Treasury.

[F. R. Doc. 58-5219; Filed, July 8, 1958; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

WENGER SALES COMMISSION

DEPOSTING OF STOCKYARD

It has been ascertained that the Wenger Sales Commission, West Union, Iowa, originally posted on March 12, 1957,

as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it no longer meets the area requirements. Accordingly, notice is given to the owners thereof and to the public that such livestock market is no longer subject to the provisions of the act.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not depositing promptly a stockyard which no longer is within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 2d day of July 1958.

[SEAL]

DAVID M. PETTUS,

Director,

Livestock Division,

Agricultural Marketing Service.

[F. R. Doc. 58-5212; Filed, July 8, 1958; 8:48 a. m.]

Commodity Stabilization Service

Commodity Credit Corporation

DELEGATIONS OF AUTHORITY WITH RESPECT TO CERTAIN COMMODITY CREDIT CORPORATION ACTIVITIES

In order to provide for the execution of certain documents in connection with Commodity Credit Corporation transactions, a delegation of authority is provided below, pursuant to authority vested in me by the bylaws of Commodity Credit Corporation.

The authority herein delegated shall be exercised in conformity with the bylaws, regulations and programs of Commodity Credit Corporation; and the policies adopted by the Board of Directors of the Corporation.

The Directors or Acting Directors of the Commodity Stabilization Service Commodity Offices at Cincinnati, Ohio, Dallas, Texas, Evanston, Illinois, Kansas City, Missouri, Minneapolis, Minnesota, New Orleans, Louisiana, and Portland, Oregon may sign Commodity Credit Corporation sight drafts issued in disbursement of capital funds of Commodity Credit Corporation.

The Directors or Acting Directors of the Commodity Stabilization Service

Commodity Offices at Evanston, Illinois, and Kansas City, Missouri, and other employees of such offices after written designation by the Director or Acting Director of the office may sign or countersign Commodity Credit Corporation certificates of interest issued to financial institutions participating in the financing of pools of price support commodity loans. Designations made by Directors or Acting Directors of employees in their respective offices shall remain in full force and effect until revoked by the Director or Acting Director or until the delegate is separated from his position in the office.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b)

Issued this 2d day of July 1958.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 58-5213; Filed, July 8, 1958;
8:48 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-53]

AEROJET-GENERAL NUCLEONICS

NOTICE OF ISSUANCE OF FACILITY LICENSE

Please take notice that no request for a formal hearing having been filed following the publication of notice of the proposed action in the FEDERAL REGISTER on June 19, 1957, 22 F. R. 4329, the Atomic Energy Commission has issued License R-44 authorizing Aerojet-General Nucleonics to possess, operate and transfer to any authorized person a 100-milliwatt nuclear reactor which has been designated by the Company as Model AGN-201, Serial No. 114.

Dated at Germantown, Md., this 30th day of June 1958.

For the Atomic Energy Commission.

E. R. PRICE,
Acting Director, Division of
Licensing and Regulation.

[F. R. Doc. 58-5195; Filed, July 8, 1958;
8:45 a. m.]

[Docket No. 50-50]

NORTH AMERICA AVIATION, INC.

NOTICE OF TERMINATION OF UTILIZATION FACILITY LICENSE

Please take notice that, North American Aviation having requested the termination of its Facility License No. R-19, the Atomic Energy Commission has, this date, terminated said license, which was issued to North American Aviation, Inc., on August 15, 1957.

North American Aviation, Inc., has informed the Commission that it has dismantled the five (5) watt research reactor which it had operated at Canoga Park, California as authorized under License No. R-19.

This action is taken by the Commission without prejudice to the filing of a new application for license to construct and operate the facility at a later date.

Further details may be obtained by examination of Docket No. 50-45 on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C.

Dated at Germantown, Md., this 30th day of June 1958.

For the Atomic Energy Commission.

E. R. PRICE,
Acting Director, Division of
Licensing and Regulation.

[F. R. Doc. 58-5196; Filed, July 8, 1958;
8:45 a. m.]

[Docket No. 50-34]

WESTINGHOUSE ELECTRIC CORP.

NOTICE OF ISSUANCE OF FACILITY LICENSE AMENDMENT

Please take notice that the Atomic Energy Commission has issued the following Amendment No. 1 to License CX-6 authorizing Westinghouse Electric Corporation to conduct a second series of critical experiments in its Yankee Critical Experiments Facility located at the Westinghouse Reactor Evaluation Center near Waltz Mill, Pennsylvania to test a change in the reactor water-to-uranium metal ratio from 3:1 to 2.23:1. The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the conduct of the proposed experiments does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the facility.

In accordance with the Commission's rules of practice (10 CFR Part 2), the Commission will direct the holding of a formal hearing on the matter of issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after the issuance of the license amendment. For further details, see (1) the application for license amendment by Westinghouse Electric Corporation and (2) a hazards analysis of the experiments prepared by the Division of Licensing and Regulation, both on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 30th day of June 1958.

For the Atomic Energy Commission.

E. R. PRICE,
Acting Director, Division of
Licensing and Regulation.

[License No. CX-6, Amdt. 1]

1. By application dated May 9, 1958, for amendment to License No. CX-6, Westinghouse Electric Corporation has applied for AEC authorization to conduct a second series of critical experiments in its Yankee Critical Experiments Facility involving a

change in the reactor water-to-uranium metal ratio from 3:1 to 2.23:1. The Commission has reviewed the proposed experiments and concluded that they can be conducted by the applicant in its facility described in License No. CX-6 without presenting undue hazard to the health and safety of the public and that operation of the facility for the conduct of the experiments will not be inimical to the common defense and security.

The Commission hereby amends License No. CX-6 as follows:

a. Paragraph 1e. is changed to read as follows:

Westinghouse Electric Corporation has submitted proof of financial protection which satisfies the requirements of Commission regulations currently in effect.

b. Paragraph 2a. is changed to read as follows:

Pursuant to section 104 (c) of the Atomic Energy Act of 1954, as amended, and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", to possess and operate as a utilization facility the critical experiment facility designated below, and to conduct the critical experiments described in the application in accordance with the procedures described therein.

c. Paragraph 3 is changed to read as follows:

This license applies to the facility which is owned by Westinghouse and located in Westmoreland County, Pennsylvania, and described in Westinghouse's application filed on July 29, 1957, and amendments to the application filed on August 14 and 21, 1957, and May 12, 1958 (herein referred to as "the application").

d. Paragraph 4a. (1) is deleted.

e. A new paragraph 4a. (1) is added as follows:

Westinghouse shall not perform a critical experiment, other than the experiments described in the application, in the facility until a description of the experiment and a hazards summary report shall have been submitted to the Commission and the Commission shall have specifically authorized the experimental activity.

Date of Issuance: June 30, 1958.

For the Atomic Energy Commission.

E. R. PRICE,
Acting Director,
Division of Licensing and Regulation.

[F. R. Doc. 58-5197; Filed, July 8, 1958;
8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 9376 etc.]

RIDDLE AIRLINES, INC. ET AL.

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT

In the matter of Riddle Airlines, Inc., Docket No. 9376; Slick Airways, Inc., Docket No. 9414; Aaxico Airlines, Inc., Docket No. 9439; The Flying Tiger Line, Inc., Docket No. 9530.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that the oral argument in the above-entitled matter, now assigned for July 9, is postponed to July 14, 1958, at 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., July 3, 1958.

[SEAL]

THOMAS L. WRENN,
Acting Chief Examiner.

[F. R. Doc. 58-5235; Filed, July 8, 1958;
8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-9290]

NUECES CO.

NOTICE OF POSTPONEMENT OF HEARING

JUNE 30, 1958.

Notice is hereby given that the hearing now scheduled for July 14, 1958, in the above-designated matter is postponed to commence at 10:00 a. m., e. d. s. t., July 24, 1958, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

[SEAL]

JOSEPH H. GUTRIE,
Secretary.

[F. R. Doc. 58-5200; Filed, July 8, 1958;
8:46 a. m.]

[Docket Nos. G-12174, G-12176]

TIDEWATER OIL CO. AND GULF INTERSTATE
GAS CO.

NOTICE OF APPLICATIONS, CONSOLIDATING PROCEEDINGS AND DATE OF HEARING

JULY 1, 1958.

In the matters of Tidewater Oil Company, Docket No. G-12174; Gulf Interstate Gas Company, Docket No. G-12176.

Take notice that Tidewater Oil Company (Tidewater), a Delaware corporation with its principal place of business in San Francisco, California, filed an application in Docket No. G-12174 on March 8, 1957, authorizing the proposed sale of natural gas produced by Tidewater from certain lands¹ located in Savoy Field, Landry Parish, Louisiana, to United Fuel Gas Company, under the terms of a contract dated February 12, 1957. The gas to be sold as aforesaid is to be delivered to Gulf Interstate Gas Company for transport to United Fuel Gas Company through certain facilities to be constructed and operated for the purpose by Gulf Interstate. Such facilities will connect with the natural gas pipe lines system of the said transporter near Rayne, Louisiana, and the gas so delivered in Louisiana will be transported and delivered to United Fuel Gas Company at a point in Kentucky. From this point the gas will continue to points of sale for resale for ultimate public consumption, all as more fully described in the application on file with the Commission and open to public inspection.

Gulf Interstate Gas Company (Gulf Interstate), a Delaware corporation with its principal place of business in Houston, Texas, filed an application in Docket No. G-12176 on March 8, 1957, authorizing the construction and operation of

approximately 5,000 feet of 4½ inch O. D. lateral supply pipe line and a meter station to be located in the Savoy Field, Landry Parish, Louisiana to enable it to take the gas from Tidewater. The estimated total costs of the proposed facilities is \$34,800, which cost is to be financed from company funds.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 31, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protest or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 21, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

JOSEPH H. GUTRIE,
Secretary.

[F. R. Doc. 58-5201; Filed, July 8, 1958;
8:46 a. m.]

[Docket No. G-14494 etc.]

TEXAS GAS TRANSMISSION CORP. ET AL.

ORDER MODIFYING ORDER FIXING DATE OF HEARING

JULY 1, 1958.

In the matters of Texas Gas Transmission Corporation, Docket No. G-14494; The British-American Oil Producing Company (Operator), Docket No. G-14515; Sohio Petroleum Company, Docket No. G-14569; Southwest Gas Producing Company, Inc., et al., Docket No. G-14835.

Upon consideration of the petition to modify order fixing date of hearing filed by Texas Gas Transmission Corporation on June 9, 1958, in the above designated matters:

Take notice that the date of hearing heretofore scheduled for September 15, 1958, at 10:00 a. m., e. d. s. t., by order issued May 29, 1958, is hereby changed and such hearing will be held on July 24, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Wash-

ington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

No protest or petition to intervene in the above-entitled matters have been received within the time required by the Commission's rules of practice and procedure.

By the Commission.

[SEAL]

JOSEPH H. GUTRIE,
Secretary.

[F. R. Doc. 58-5202; Filed, July 8, 1958;
8:47 a. m.]

[Docket No. G-15370]

PLACID OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

JULY 1, 1958.

Placid Oil Company (Operator) et al. (Placid), on June 2, 1958, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: (1) Letter,¹ dated September 27, 1957. (2) Notice of Change, dated May 29, 1958. (3) Letter,² dated September 26, 1957. (4) Notice of Change, dated May 29, 1958.

Purchaser: H. L. Hunt.

Rate schedule designation: (1) Supplement No. 3 to Placid's FPC Gas Rate Schedule No. 15. (2) Supplement No. 4 to Placid's FPC Gas Rate Schedule No. 15. (3) Supplement No. 2 to Placid's FPC Gas Rate Schedule No. 16. (4) Supplement No. 3 to Placid's FPC Gas Rate Schedule No. 16.

Effective date: July 3, 1958 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed revenue-sharing rate increases, Placid cites the letter agreements providing the new prices and states, among other things that such escalation clauses as contained in the amendatory agreements are common in long-term gas sales agreements; that producer's costs increase as direct functions of time and depletion of reserves, and that the increased prices are below the initial price contained in contracts negotiated at the same time for gas sold in the area and to deny same would be discriminatory. Placid also states that the proposed prices are just and reasonable and would result in no more than a fair return.

The increased rates and charges so proposed have not been shown to be jus-

¹ Parties agree to increase rate to 14.4 cents less 2.5 cents, or 11.9 cents per Mcf.

² Parties agree to increase rate to 14.4 cents less 0.5 cents, or 13.9 cents per Mcf.

¹ Gulf Interstate Oil Company owns a 50 percent interest in one of the dedicated leases (Abel Smith Lease). Gulf Interstate Oil Company is a non-signatory co-owner.

tified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement Nos. 3 and 4 to Placid's FPC Gas Rate Schedule No. 15, and Supplement Nos. 2 and 3 to Placid's FPC Gas Rate Schedule No. 16, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement Nos. 3 and 4 to Placid's FPC Gas Rate Schedule No. 15, and Supplement Nos. 2 and 3 to Placid's FPC Gas Rate Schedule No. 16.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until December 3, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-5203; Filed, July 8, 1958;
8:47 a. m.]

[Docket No. G-15371]

PLACID OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING
PROPOSED CHANGE IN RATES

JULY 1, 1958.

Placid Oil Company (Operator) et al. (Placid), on June 2, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated May 29, 1958.

Purchaser: H. L. Hunt.

Rate schedule designation: Supplement No. 6 to Placid's FPC Gas Rate Schedule No. 14.
Effective date: July 3, 1958 (effective date

is the first day after expiration of the required thirty days' notice).

In support of the proposed three-step periodic rate increase, Placid cites the contract provision therefor and states that the increased price is below the initial price contained in contracts negotiated at the same time for gas sold in the area and to deny same would be discriminatory. Placid also states that the proposed price is just and reasonable and would result in no more than a fair return.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 6 to Placid's FPC Gas Rate Schedule No. 14 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 6 to Placid's FPC Gas Rate Schedule No. 14.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until December 3, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-5204; Filed, July 8, 1958;
8:47 a. m.]

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

[Wildlife Order 49]

MONONA COUNTY, IOWA

TRANSFER OF PROPERTY KNOWN AS ONAWA
MATERIAL STORAGE YARD (D-IOWA-411)

Pursuant to the authority granted under Public Law 537, approved May 13, 1948, Eightieth Congress (16 U. S. C. 667c), notice is hereby given that:

1. By deed from the United States of America, dated May 1, 1958, that property known as the Onawa Material Storage Yard (D-IOWA-411), Monona County, Iowa, and more particularly described in said deed, has been transferred from the United States to the State of Iowa.

2. The above-described property was transferred to the State of Iowa for wildlife conservation purposes (other than migratory birds) in accordance with the provisions of said Public Law 537.

F. MORAN MCCONNIE,
Commissioner,
Public Buildings Service.

JUNE 18, 1958.

[F. R. Doc. 58-5220; Filed, July 8, 1958;
8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 224]

MOTOR CARRIER APPLICATIONS

JULY 3, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a. m., United States standard time (or 9:30 o'clock a. m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 4409 (Sub No. 13), filed June 17, 1958. Applicant: R. & H. CORPORATION, 1004 Stanton Avenue, New Kensington, Pa. Applicant's attorney: Harold S. Shertz, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a common or contract carrier, by motor vehicle, over irregular routes, transporting: Glass containers, and caps, covers, disks, and tops therefor, and fibreboard boxes, from Huntington, Charleston, and Fairmont, W. Va., to points in Pennsylvania and New York, and returned glass containers, cullet, and empty shipping containers, pallets, and other incidental shipping devices on return. Applicant is authorized to conduct operations in Pennsylvania, New York, New Jersey, Maryland, West Virginia, Ohio, Delaware, Virginia, District of Columbia, Vermont, Connecticut, Massachusetts, Rhode Island, New Hampshire, North Carolina, South Carolina, Georgia, Alabama, Florida, Tennessee, and Indiana.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier in No. MC 4409 (Sub No. 11).

HEARING: September 4, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James H. Gaffney.

No. MC 4409 (Sub No. 14), filed June 18, 1958. Applicant: R. & H. CORPORATION, 1004 Stanton Avenue, New Kensington, Pa. Applicant's attorney: Harold S. Shertz, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, and caps, covers, disks, and tops therefor, and fibreboard boxes, from points in Clarion County, Pa., except Knox, Pa., to points in Emmet, Cheboygan, Presque Isle, Charlevoix, Antrim, Otsego, Montmorency, Alpena, Leelanau, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Oceana, Newaygo, Mecosta, Isabella, Midland, Muskegon, Kent, Ionia, Montcalm, Gratiot, Saginaw, Tuscola, Huron, Sanilac, Ottawa, Clinton, Shiawassee, Genesee, Lapeer, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, St. Clair, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lanawee, and Monroe Counties, Mich., and pallets, empty shipping containers, and other incidental shipping devices used in outbound movements of glass containers on return.* Applicant is authorized to conduct operations in Pennsylvania, New York, New Jersey, Maryland, West Virginia, Ohio, Delaware, Virginia, District of Columbia, Vermont, Connecticut, Massachusetts, Rhode Island, New Hampshire, North Carolina, South Carolina, Georgia, Alabama, Florida, Tennessee, and Indiana.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier in No. MC 4409 (Sub No. 11).

HEARING: September 4, 1958, at the offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James H. Gaffney.

No. MC 4409 (Sub No. 15), filed June 18, 1958. Applicant: R. & H. CORPORATION, 1004 Stanton Avenue, New Kensington, Pa. Applicant's attorney: Harold S. Shertz, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, empty shipping containers, and other incidental shipping devices used in outbound movements of glass containers, from points in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Virginia, Vermont, and West Virginia to points in Clarion County, Pa., except Knox, Pa.* Applicant is authorized to conduct operations in Pennsylvania, New York, New Jersey, Maryland, West Virginia, Ohio, Delaware, Virginia, District of Columbia, Vermont, Connecticut, Massachusetts, Rhode Island, New Hampshire, North Carolina, South Carolina, Georgia, Alabama, Florida, Tennessee, and Indiana.

NOTE: Applicant states that the intent of this application is to give shipper the authority to return shipping devices from their customers. A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier in No. MC 4409 (Sub No. 11).

HEARING: September 4, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James H. Gaffney.

No. MC 5649 (Sub No. 26), filed June 17, 1958. Applicant: KULP AND GORDON, INC., 370 Hall Street, Phoenixville, Pa. Applicant's attorney: Paul F. Barnes, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel and iron, equipment, supplies, and materials, used or useful in the installation or erection of such commodities, from Phoenixville, Pa., to points in Virginia within 25 miles of Washington, D. C., excluding points in the Washington, D. C., Commercial Zone as defined by the Commission.* Applicant is authorized to conduct operations in Pennsylvania, Maryland, New Jersey, New York, Delaware, District of Columbia, Virginia, Connecticut, Massachusetts, Maine, and Rhode Island.

HEARING: September 4, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James C. Cheseldine.

No. MC 5649 (Sub No. 28), filed June 17, 1958. Applicant: KULP AND GORDON, INC., 370 Hall Street, Phoenixville, Pa. Applicant's attorney: Paul F. Barnes, 811-819 Lewis Tower Building, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel and iron, equipment, supplies and materials, used or useful in the installation or erection of such commodities, from Phoenixville, Pa., to Portsmouth and Norfolk, Va.* Applicant is authorized to conduct operations in Pennsylvania, Maryland, New Jersey, New York, Delaware, District of Columbia, Virginia, Connecticut, Massachusetts, Maine, and Rhode Island.

HEARING: September 4, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James C. Cheseldine.

No. MC 25570 (Sub No. 4), filed June 16, 1958. Applicant: MYERS COAL COMPANY, INC., 110 East Liberty Street, Charles Town, W. Va. Applicant's attorney: Glenn F. Morgan, 1006-1008 Warner Building, Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, crushed stone, limestone, and limestone dust, in bulk and in bags, from Stephens City and Middletown, Va., to points in Maryland, Pennsylvania, and West Virginia, and empty containers or other such incidental facilities used in transporting the above-described commodities, on return.* Applicant is authorized to conduct operations from and to specified points in West Virginia, Virginia, North Carolina, Pennsylvania, Maryland,

Delaware, New Jersey, New York, South Carolina, Tennessee, Connecticut, and the District of Columbia.

HEARING: September 3, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner C. Evans Brooks.

No. MC 30837 (Sub No. 233), filed May 5, 1958. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. Applicant's attorney: Paul F. Sullivan, Sundial House, 1821 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, excluding house trailers and mobile homes, in initial movements, by the truckaway method, from Walnut Creek, Calif., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.* Applicant is authorized to conduct operations throughout the United States.

HEARING: September 4, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 40007 (Sub No. 58), filed June 4, 1958. Applicant: RELIABLE TRANSPORTATION COMPANY, A Corporation, 4817 Sheila Street, Los Angeles 22, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, in bulk, in tank trucks and trailers, from Phoenix and Tucson, Ariz., to Niland and Colton, Calif.* Applicant is authorized to conduct operations in California, Arizona, New Mexico, Texas, and Nevada.

HEARING: September 25, 1958, at the Federal Building, Los Angeles, Calif., before Joint Board No. 47, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 42487 (Sub No. 360), filed March 27, 1958. Applicant: CONSOLIDATED FREIGHTWAYS, INC., 2116 Northwest Savier Street, Portland, Oreg. Applicant's attorneys: R. E. Poelman, 431 Burgess Drive, Menlo Park, Calif., and Donald A. Schafer, 1026 Public Service Building, Portland 4, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities, except those of unusual value, household goods as defined by the Commission, and commodities requiring special equipment, serving Deer Valley Park (located approximately 14 miles north of Phoenix, Ariz., near Arizona Highway 69), as an off-route point in connection with applicant's authorized regular route operations between Salt Lake City, Utah, and Phoenix, Ariz.* Applicant is authorized to conduct operations in Arizona, California, Idaho, Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

HEARING: September 19, 1958, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 240, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 42487 (Sub No. 366), filed May 13, 1958. Applicant: CONSOLIDATED FREIGHTWAYS, INC., 2116 Northwest Sawyer Street, Portland, Oreg. Applicant's attorneys: Ron E. Poelman, 431 Burgess Drive, Menlo Park, Calif., and Donald A. Schafer, 1026 Public Service Building, Portland 4, Oreg. Authority sought to operate as a common carrier, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between San Francisco, Calif., and Crescent City, Calif., over U. S. Highway 101, serving no intermediate points. Applicant is authorized to conduct operations in California and Oregon.

NOTE: Applicant states that the above authority will be restricted to traffic moving to and from points north of Brookings, Oregon, including Brookings.

HEARING: September 3, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Joint Board No. 75, or if the Joint Board waives its rights to participate, before Examiner F. Roy Linn.

No. MC 45764 (Sub No. 8), filed June 25, 1958. Applicant: MAURICE ROBBINS, doing business as ROBBINS MOTOR TRANSPORTATION, 1517 South 52d Street, Philadelphia 43, Pa. Applicant's representative: Jacob Pollin, 314 Old Lancaster Road, Merion, Pa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machines and machinery, and parts and accessories therefor*, which because of size or weight require special equipment, between points in Pennsylvania east of the Susquehanna River and Trenton, N. J., on the one hand, and, on the other, points in Florida, Georgia, Indiana, Kentucky, Maine, Michigan, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, and West Virginia. Applicant is authorized to conduct operations in New Jersey, Pennsylvania, New York, Maryland, Delaware, District of Columbia, Connecticut, and Massachusetts.

HEARING: September 11, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lucian A. Jackson.

No. MC 52721 (Sub No. 6), filed May 12, 1958. Applicant: HOPPER TRUCK LINES, 3220 West McDowell, Phoenix, Ariz. Applicant's attorney: Wyman C. Knapp, 727 West Seventh Street, Los Angeles 17, Calif. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk other than citrus fruits and agricultural commodities, and commodities requiring special equipment other than those requiring refrigeration or specialized handling or rigging because of size or weight, (1) between San Diego, Calif., and El Centro, Calif., over U. S. Highway 80; (2) between Mesa, Ariz., and Lordsburg, N. Mex., over U. S.

Highway 70; (3) between Tucson, Ariz., and El Paso, Tex., from Tucson over U. S. Highway 80 to Benson, Ariz., thence over Arizona Highway 86 to the Arizona-New Mexico State line, thence over New Mexico Highway 14 to the junction of U. S. Highway 80, thence over U. S. Highway 80 to El Paso, and return over the same route, serving all intermediate points on routes 2 and 3 outlined above. Applicant is authorized to conduct operations in California and Arizona.

HEARING: September 29, 1958, at the Federal Building, Los Angeles, Calif., before Examiner F. Roy Linn.

No. MC 62499 (Sub No. 4), filed June 23, 1958. Applicant: HAGERSTOWN MOTOR EXPRESS CO., INC., 526 Frederick Street, Hagerstown, Md. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers* which are drawn by passenger automobiles, in truckaway and towaway service, and returned and disabled trailers, between points in Washington and Frederick Counties, Md., points in Franklin and Adams Counties, Pa., and points in Morgan and Berkeley Counties, W. Va., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wisconsin, West Virginia, and the District of Columbia. Applicant is authorized to conduct operations in Pennsylvania, Maryland, West Virginia, and the District of Columbia.

HEARING: September 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Herbert L. Hanback.

No. MC 70272 (Sub No. 17), filed May 9, 1958. Applicant: KING VAN LINES, INC., 6800 East Kellogg, Wichita, Kans. Applicant's attorney: W. T. Brunson, Leonhardt Building, Oklahoma City 2, Okla. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between El Paso, Texas, and points in Arizona and New Mexico, and those in California on and south of a line extending from Needles along U. S. Highway 66 to Los Angeles and points in the Los Angeles Commercial Zone as defined by the Commission, north of U. S. Highway 66. Applicant is authorized to conduct operations in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

HEARING: September 17, 1958, at the Arizona Corporation Commission,

Phoenix, Ariz., before Examiner F. Roy Linn.

No. MC 83539 (Sub No. 34), filed June 16, 1958. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, P. O. Box 5976, Dallas, Tex. Applicant's attorney: W. T. Brunson, Leonhardt Building, Oklahoma City 2, Okla. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment, and (B) *Iron or steel silos*, knocked down, each silo to include one unloader, and (C) *Parts and accessories of Items (A) and (B) above*, when moving with such commodities, between Kankakee, Ill., and points in the Commercial Zone thereof, as defined by the Commission, on the one hand, and, on the other, points in the United States, including the District of Columbia and the territory of Alaska. Applicant is authorized to conduct operations in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming.

HEARING: September 9, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James I. Carr.

No. MC 92983 (Sub No. 299), filed June 20, 1958. Applicant: ELDON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fats and oils*, in bulk, in tank vehicles, between points in Iowa, Kansas, and Nebraska, on the one hand, and, on the other, points in California, Oregon, and Washington. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming.

HEARING: July 23, 1958, at the Rome Hotel, Omaha, Nebr., before Examiner Leo W. Cunningham.

No. MC 107227 (Sub No. 62), filed May 21, 1958. Applicant: INSURED TRANSPORTERS, INC., 251 Park Street, San Leandro, Calif. Applicant's attorney: John G. Lyons, Mills Tower, San Francisco 4, Calif. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trucks*, in truckaway service, from Salinas, Calif., to points in the United States. Applicant is authorized to conduct operations throughout the United States.

HEARING: September 3, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 107527 (Sub No. 38), filed May 26, 1958. Applicant: POST TRANS-

PORTATION COMPANY, A Corporation, 3152 East 26th Street, Los Angeles 23, Calif. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank trucks and trailers, from Vernon and Dominguez, Calif., to the International boundary between the United States and Mexico at or near San Ysidro, Calif. Applicant is authorized to conduct operations in California, Nevada, Arizona, Utah, Wyoming, Montana, Idaho, Colorado, and New Mexico.

Note: A proceeding has been instituted under section 212 (c) in No. MC 107527 (Sub No. 37), to determine whether applicant's status is that of a common or contract carrier.

HEARING: September 26, 1958, at the Federal Building, Los Angeles, Calif., before Joint Board No. 304, or if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 109584 (Sub No. 41), filed March 18, 1958. Applicant: ARIZONA-PACIFIC TANK LINES, A Corporation, 717 North 21st Avenue, Phoenix, Ariz. Applicant's attorney: R. Y. Schureman, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *meat fats*, in bulk, in tank vehicles, edible and inedible, from Albuquerque, N. Mex., to points in the Los Angeles, Calif., and Los Angeles Harbor, Calif., Commercial Zones, and (2) *paint materials, animal oils, fish oils and mineral base spirits*, in bulk, in tank vehicles, from points in Los Angeles County and Anaheim, Calif., to Phoenix and Tucson, Ariz., and rejected and contaminated shipments of the above-described commodities, on return. Applicant is authorized to conduct operations in Utah, California, Colorado, Idaho, Oregon, Washington, Nevada, Arizona, Texas, and New Mexico.

Note: Applicant states that it seeks no duplication of operating authority.

HEARING: September 12, 1958, at the Arizona Corporation Commission, Phoenix, Ariz., before Joint Board No. 167, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 109584 (Sub No. 42), filed June 10, 1958. Applicant: ARIZONA-PACIFIC TANK LINES, a Corporation, 717 North 21st Avenue, Phoenix, Ariz. Applicant's attorney: R. Y. Schureman, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Sulphuric acid*, in bulk, in tank vehicles, from Chandler, Ariz., and points within five (5) miles thereof, including Chandler, to points in California, Colorado, New Mexico, Nevada, Texas, and Utah; and (2) *Rejected and contaminated shipments of sulphuric acid and turpentine*, from the above-specified destination points to their respective origin points. Applicant is authorized to conduct operations in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

HEARING: September 11, 1958, at the Arizona Corporation Commission, Phoenix, Ariz., before Examiner F. Roy Linn.

No. MC 109584 (Sub No. 43), filed June 23, 1958. Applicant: ARIZONA-PACIFIC TANK LINES, a Corporation, 717 North 21st Avenue, Phoenix, Ariz. Applicant's attorney: R. Y. Schureman, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Miami and Hayden, Ariz., to points in California, Colorado, Nevada, New Mexico, El Paso County, Tex., and Utah, and rejected and contaminated shipments of the above-specified commodity on return. Applicant is authorized to conduct operations in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, and Washington.

HEARING: September 11, 1958, at the Arizona Corporation Commission, Phoenix, Ariz., before Examiner F. Roy Linn.

No. MC 112321 (Sub No. 1), filed April 4, 1958. Applicant: RAY E. CAGLE AND FORREST L. CAGLE, doing business as CAGLE BROS. TRUCKING SERVICE, 402 West Watkins Road, Phoenix, Ariz. Applicant's attorney: W. Francis Wilson, 522 Luhrs Building, Phoenix, Ariz. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Iron, steel, fabricated iron and steel products, pipe, construction tools, machinery and equipment*, between points in Arizona, California, Utah, Nevada, Colorado, New Mexico, and Texas. Applicant is authorized to conduct operations in Arizona and New Mexico.

HEARING: September 15, 1958, at the Arizona Corporation Commission, Phoenix, Ariz., before Examiner F. Roy Linn.

No. MC 113518 (Sub No. 4), filed April 24, 1958. Applicant: FRESNO ALBUQUERQUE TRUCK LINE, INC., 360 East Second Street, Los Angeles, Calif. Applicant's attorney: Donald Murchison, 211 South Beverly Drive, Beverly Hills, Calif. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, alcohol and wine-making materials and supplies*, in bulk, in tank trucks or trailers, between San Francisco, Fresno, Bakersfield and Los Angeles, Calif., and points within 60 miles of each on the one hand, and on the other, Denver, Colo., Atchison, Kans., Kansas City and St. Louis, Mo., Muscatine, Iowa, Omaha, Nebr., Chicago, Peoria, and Pekin, Ill., Terre Haute and Indianapolis, Ind., Columbus, Ohio, Paterson, N. J., New York, N. Y., and Bardonia and Louisville, Ky., and points within 50 miles of Bardonia and Louisville. Applicant is authorized to conduct operations in California and New Mexico.

HEARING: September 23, 1958, at the Federal Building, Los Angeles, Calif., before Examiner F. Roy Linn.

No. MC 115379 (Sub No. 3), filed June 19, 1958. Applicant: JOHN D. BOHR, JR., R. D. No. 2, Annville, Pa. Applicant's attorney: Christian V. Graf, 11 North Front Street, Harrisburg, Pa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Phosphate rock*, in bulk, from points in Philadelphia County, Pa., to points in Delaware. Ap-

plicant is authorized to transport limestone and limestone products, from specified counties in Pennsylvania to points in Delaware and specified counties in Maryland, and sand from Cecil County, Md., to Dauphin and Lebanon Counties, Pa.

HEARING: September 9, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Michael B. Driscoll.

No. MC 115955 (Sub No. 4), filed June 23, 1958. Applicant: HARRY J. SCARI, doing business as SCARI'S DELIVERY SERVICE, 1014 West Sixth Street, Wilmington, Del. Applicant's attorney: Albert F. Beitel, American Security Building, Washington 5, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities, except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, with the restriction that shipments shall be limited to those moving on an airbill of lading in addition to a motor carrier movement by applicant and immediately prior or immediately subsequent movement by air*, between the plant sites of International Latex Corporation, Dover, Del., on the one hand, and, on the other, Philadelphia International Airport and North Philadelphia Airport near Philadelphia, Pa., and the New Castle County Airport, New Castle, Del. Applicant is authorized to conduct common carrier operations in Delaware and Pennsylvania and contract carrier operations in Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and the District of Columbia. Dual operations may be involved.

HEARING: September 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Isadore Freidson.

No. MC 116824 (Sub No. 3), filed June 2, 1958. Applicant: R. C. CHIPMAN, doing business as CHIPMAN TRUCK COMPANY, 22606 South Alameda Street, Long Beach, Calif. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cresylic acid*, in bulk in tank vehicles, from Santa Fe Springs, Calif., to Morenci, Ariz.

HEARING: September 26, 1958, at the Federal Building, Los Angeles, Calif., before Joint Board No. 47, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 116961 (Sub No. 1), filed April 28, 1958. Applicant: KARL ARTHUR WEBER, 10080 Central Avenue (P. O. Box 255), Ontario, Calif. Applicant's attorney: John M. Hickson, Failing Building, Portland, Ore. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, in combination hopper flat bed type equipment, from the site of the West Vaco Chemical Co. plant at Green River, Wyo., to points in California; and *Empty glass containers*, (all types), from Hayward, Antioch, Vernon, and Fullerton, Calif., to Salt Lake City, Utah, and points in Weber, Davis, Morgan, Summit, Salt Lake, and Wasatch Counties, Utah, Denver, Colo., and to points in Jefferson, Adams, Arap-

ahoe, Douglas, and Elbert Counties, Colo.

HEARING: September 4, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 117100 (Sub No. 2), filed June 19, 1958. Applicant: SAM ORGEL AND JULE ORGEL, doing business as ELIZABETH RUBBER WASTE, 248 First Street, Elizabeth, N. J. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber (crude, natural or synthetic) reclaim rubber, scrap rubber and hard scrap-pulverized, plastic pellets or granules and powder, plastic scrap, loose and in containers, between points in Essex, Union, Hudson, Bergen, Passaic, and Middlesex Counties, N. J., and New York, N. Y., on the one hand and, on the other, points in Connecticut, Massachusetts, Rhode Island, New York and Ohio.*

NOTE: Applicant states that the above-described operations will be limited to a transportation service to be performed under a continuing contract or contracts with A. Schulman, Inc.

HEARING: September 9, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before examiner Leo W. Cunningham.

No. MC 117341, filed April 14, 1958. Applicant: W. R. WEBSTER AND W. D. WEBSTER, a Partnership, doing business as WEBSTER TANK TRUCK SERVICE, 12540 Los Nietos Road, Los Nietos, Calif. Applicant's attorney: Ivan McWhinney, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, road oil, and fuel oil, in bulk, in tank vehicles, from points in Los Angeles County, Calif., to Ports of Entry in California and Arizona on the boundary between the United States and Mexico, and from Tucson, Ariz., to the Port of Entry on the boundary between the United States and Mexico at or near Nogales, Ariz.*

HEARING: September 25, 1958, at the Federal Building, Los Angeles, Calif., before Joint Board No. 47, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 117438, filed June 5, 1958. Applicant: CLARENCE VERNON BOWLING, doing business as BUD'S MOBILE HOME MOVING, 8918 Castro Valley Boulevard, Castro Valley, Calif. Applicant's attorney: Bruce R. Geernaert, 100 Bush Street, San Francisco 4, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *House trailers, designed to be drawn by passenger automobiles, in secondary movements, in truckaway service, between Castro Valley, Calif., on the one hand, and, on the other, points in California, Oregon, Washington, Nevada, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Tennessee, Georgia, and Florida; and (2) New house trailers, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from New-*

ton, Kans., and Tulsa, Okla., to San Leandro, Calif.

HEARING: September 5, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 117456, filed June 16, 1958. Applicant: HARRY N. JONES AND DELMER A. PRITCHARD, doing business as MOBILE HOME MOVERS, 10429 Royal Ann Street, Oakland, Calif. Applicant's representative: Pete H. Dawson, 1261 Drake Avenue, Burlingame, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New and used house trailers, in truckaway and driveway service, between points in Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Santa Cruz, and Solano Counties, Calif., on the one hand, and, on the other, points in Nevada, Oregon and Washington.*

HEARING: September 5, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

MOTOR CARRIERS OF PASSENGERS

No. MC 453 (Sub No. 13), filed June 11, 1958. Applicant: THE GRAY LINE, INC., 1010 Eye Street NW., Washington, D. C. Applicant's attorney: S. Harrison Kahn, 726-34 Investment Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *Passengers and their baggage, in special operations, during the racing season, between Washington, D. C., and the Baltimore Raceway, Baltimore, Md., from Washington, D. C., over the Washington-Baltimore Parkway to Baltimore, thence over city streets and U. S. Highway 40 to the Baltimore Raceway, and return over the same route, serving no intermediate points. Applicant is authorized to conduct operations in Maryland, Delaware, New Jersey, Pennsylvania, Virginia, and the District of Columbia.*

HEARING: September 10, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Joint Board No. 120.

No. MC 89687 (Sub No. 6), filed May 28, 1958. Applicant: ALFRED L. RIDDLE, Doing business as RIDDLE SCENIC TOURS, 206 West Sixth Street, Los Angeles 14, Calif. Applicant's attorney: Arthur H. Glanz, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, in special operations consisting of sightseeing or pleasure tours, (A) Remove the restriction against use of larger equipment than 7 passenger limousines in MC 89687. Also remove the seasonal restrictions presently contained in MC 89687 (Sub No. 5). Applicant seeks also to remove restrictions against the pick up or discharge of passengers at certain points en route, so that tour parties might, in connection with a tour to Death Valley National Monument, commence at one gateway and terminate at another gateway thus facilitating regular transcontinental or other common carrier travel connections. Applicant proposes*

to transport passengers and their baggage in special operations consisting of sightseeing and pleasure tours to Death Valley National Monument, where the tour begins at either Bakersfield, Barstow, or Baker, Calif., and ends at either of the following points: Bakersfield, Barstow, Baker, Lone Pine, Trona, Mojave, Calif., or Las Vegas, Nev. Applicant proposes to use the routes presently authorized in various combinations with the following additional connecting and service routes: (1) between Bakersfield, Calif., and Barstow, Calif., over U. S. Highway 466; (1A) between junction of U. S. Highway 466 and unnumbered road and the Borax Works near Boron, over unnumbered roads; (1AA) between junction of California Highway 127 and unnumbered highway near Shoshone, Calif., and Ashford Mill, via Salsberry Pass; (2) between Mojave, Calif., and Trona, Calif., from Mojave over U. S. Highway 6 to junction of unnumbered highway, thence over unnumbered highways to Trona, and return over the same route, serving the intermediate points of Inyokern, China Lake, and Ridgecrest; (3) between junction of U. S. Highway 395 and 466 at Beechers Corners and junction of California Highway 190 and Emigrant Canyon Highway (Emigrant Junction), over U. S. Highway 395 to Red Mountain, thence unnumbered highway through Trona to Emigrant Canyon; (3A) between Beechers Corners (junction U. S. Highway 395 and 466) and junction of U. S. Highways 395 and 6 near Brown, Calif., over U. S. Highway 395; (3B) between junction California Highway 190 and Panamint Valley Road and junction of Emigrant Canyon Highway and Panamint Valley Road over Panamint Valley Road.

NOTE: Applicant states that it seeks to provide tour parties originating in or destined to points in Northern California and the Pacific Northwest, a tour service to Death Valley through the Bakersfield gateway, making the approach to the valley from the east and south (Barstow and Baker). The various routes sought will be used in combination for various tours, and will afford a means of making circle tours of varying length following the sequence of history, and which routes make use of various historical wagon trail trails and alternates. Some tour parties desire to start their tour at one point and end at another point to facilitate on-travel. All service provided will contemplate a "package" tour to the points of interest in Death Valley National Monument. The service proposed will be performed only for a minimum of four adult fares. Applicant requests that a consolidated certificate be issued embracing the authority now held with that requested in the application.

HEARING: September 22, 1958, at the Federal Building, Los Angeles, Calif., before Joint Board No. 78, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

APPLICATION FOR BROKERAGE LICENSE

MOTOR CARRIERS OF PROPERTY

No. MC 12682, filed June 5, 1958. Applicant: JOHN E. BROPHY, 506 Oxford Road, Havertown, Pa. For a License (BMC 4) to engage in operations as a *broker* at Havertown, Pa., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of

household goods, as defined by the Commission, and office equipment, between points in Delaware, Montgomery, Chester, and Philadelphia Counties, Pa., on the one hand, and, on the other points in the United States.

HEARING: September 4, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before examiner Harold P. Boss.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

No. MC 30837 (Sub No. 236), filed June 24, 1958. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. Applicant's attorney: Paul P. Sullivan, Sundial House, 1821 Jefferson Place NW., Washington 6, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Freight carrying trailers, trailer and truck bodies, dollies with and without bodies, set up or knocked down, from the site of the plant of Willys Motors, Inc., in Toledo, Ohio, to points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming. Applicant is authorized to conduct operations throughout the United States.

No. MC 35628 (Sub No. 218), filed June 20, 1958. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation, 134 Grandville SW., Grand Rapids, Mich. Applicant's attorney: Leonard D. Verrier, Jr., 300 Michigan Trust Building, Grand Rapids 2, Mich. Authority sought to operate as a common carrier by motor vehicle, over alternate routes, transporting: General commodities, except Class A and B explosives, dangerous inflammables, household goods as defined by the Commission and commodities in bulk, (1) between Lancaster, Pa., and Newark, N. J., from Lancaster over U. S. Highway 222 to Trexlertown, Pa., thence over Pennsylvania Highway 100 to junction U. S. Highway 22, thence over U. S. Highway 22 to Newark, and return over the same route, serving no intermediate points, and as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations between Breezewood and Philadelphia, Pa., and between Washington, D. C., and New York, N. Y., and (2) between Lancaster, Pa., and junction U. S. Highways 222 and 1, from Lancaster over Pennsylvania Highway 72 to junction U. S. Highway 222 at or near Wakefield, Pa., thence over U. S. Highway 222 to junction U. S. Highway 1, and return over the same route, serving no intermediate points, and serving junction U. S. Highways 222 and 1 for the purpose of joinder only, as an alternate route for operating convenience only, in connection with applicant's authorized regular route operations specified above. Applicant is authorized to conduct operations in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, Wisconsin, and the District of Columbia.

No. MC 55873 (Sub No. 29), filed June 24, 1958. Applicant: GREAT AMERICAN TRANSPORT, INC., 347 23d Street, Detroit 16, Mich. Applicant's attorney: Carl L. Steiner, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a common carrier, by motor vehicle, transporting: General commodities, except livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Amoco Chemicals Company plant located approximately four miles southeast of the junction of U. S. Highway 6 and U. S. Highway 66, as an off-route point in connection with applicant's authorized regular route operations between Joliet, Ill., and Hammond, Ind., and between Joliet, Ill., and Aurora, Ill. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, and Ohio.

No. MC 66562 (Sub No. 1424) (AMENDMENT) filed June 3, 1958, published in the June 25, 1958, issue, on page 4661. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated (same address as applicant). In letter dated June 20, 1958, applicant's attorney indicates the conditions to which this application is subject are (1) that the service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of, air or railway express service, and (2) shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt, covering, in addition to a motor carrier movement by said applicant, an immediately prior or immediately subsequent movement by air or rail.

No. MC 66562 (Sub No. 1425) (AMENDMENT), filed June 3, 1958, published in the June 25, 1958, issue, on page 4661. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated (same address as applicant). In letter dated June 20, 1958, applicant's attorney indicates the conditions to which this application is subject are (1) that the service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of, air or railway express service, and (2) shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt, covering, in addition to a motor carrier movement by said applicant, an immediately prior or immediately subsequent movement by air or rail.

No. MC 66562 (Sub No. 1432), filed June 23, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated, same address as above. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, including Class A and B

explosives, moving in express service, serving Murray and Benton, Ky., as off-route points in connection with applicant's authorized regular route operations between Louisville, Ky., and Fulton, Ky.: from Louisville over U. S. Highway 31W to Elizabethtown, Ky., thence over U. S. Highway 62 to Paducah, Ky., and thence over U. S. Highway 45 to Fulton, and return over the same route, serving specified intermediate points, as reflected in Certificate No. MC 66562 Sub No. 1316, subject to RESTRICTIONS set forth therein as follows: The service to be performed by carrier shall be limited to service which is auxiliary to, or supplemental of, air or railway express service. Shipments transported by carrier shall be limited to those moving on a through bill of lading or express receipt covering, in addition to the motor carrier movement by carrier, an immediately prior or immediately subsequent movement by air or rail. Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict carrier's operations to service which is auxiliary to, or supplemental of, air or railway express service. That the authority granted herein, to the extent it authorizes the transportation of Class A and B explosives, shall be limited in point of time to a period expiring five years after September 5, 1957. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states interchange with rail and air express service will be made at Louisville and Fulton, Ky.

No. MC 69785 (Sub No. 3), filed June 23, 1958. Applicant: F. CLIFFORD DAVIS AND CELINDA V. DAVIS, doing business as C. F. DAVIS TRANSPORTATION COMPANY, North Main Street, Danielson, Conn. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, in bulk, in tank vehicles, from Norwalk, Conn., to Westbury, R. I. Applicant is authorized to transport similar commodities in Connecticut, Massachusetts, and Rhode Island.

No. MC 88845 (Sub No. 5), filed June 24, 1958. Applicant: PARCEL DELIVERY SERVICE, INC., 287 Mount Pleasant Avenue, Newark, N. J. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Exposed film or processed film, replacement film, packing material, envelopes and labels for use in shipping exposed film, between Fairlawn, N. J., and points in Rockland County, N. Y. Applicant is authorized to conduct operations in New Jersey and New York.

NOTE: A proceeding has been instituted under section 212 (c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier, assigned Docket No. MC 88845 (Sub No. 4).

No. MC 92983 (Sub No. 300), filed June 23, 1958. Applicant: ELTON MILLER, INC., 330 East Washington Street, Iowa City, Iowa. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paints, resins, varnishes, and ingredients thereof, in bulk, in tank vehicles, from

points in the Kansas City, Mo., Commercial Zone, as defined by the Commission, to points in Montana, Nebraska, North Dakota, South Dakota, and Wyoming. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

No. MC 110525 (Sub No. 360), filed June 24, 1958. Applicant: CHEMICAL TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. Applicant's attorneys: Gerald L. Phelps and Leonard A. Jaskiewicz, Munsey Building, Washington 4, D. C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Black chassis paint*, in bulk, in tank vehicles, from Pittsburgh, Pa., to Buffalo, N. Y. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

No. MC 112721 (Sub No. 2), filed June 23, 1958. Applicant: G. P. DECKER, P. O. Box 654, Moab, Utah. Applicant's attorney: Bartly G. McDonough, 10 Executive Building, 455 East Fourth South, Salt Lake City 11, Utah. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Uranium, vanadium and copper-bearing ores, and empty containers or other such incidental facilities* used in transporting the above-specified commodities, between points within a 225-mile radius of Monticello, Utah, including Monticello. Applicant is authorized to transport the above-specified commodities from points within 175 miles of Monticello, Utah, except points located on the Navajo Indian Reservation in Arizona and Utah, to White Canyon, Green River and Monticello, Utah, Naturita, Uravan, and Durango, Colo., and Shiprock, N. Mex.

No. MC 113681 (Sub No. 14), filed June 30, 1958. Applicant: BAKERY PRODUCTS DELIVERY, INC., 404 West Putnam Avenue, Greenwich, Conn. Applicant's attorney: Reubin Kamisky, 410 Asylum Street, Hartford 3, Conn. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bakery products*, except frozen bakery products, under individual contracts or agreements with persons, as defined in Section 203 (a) of the Interstate Commerce Act, the business of which is the sale of bread, cakes and pastries, from the Bronx, N. Y., to Providence, R. I., Boston and Westfield, Mass., and Washington, D. C., and stale,

refused, damaged, rejected and non-saleable shipments of the above-described commodities, and empty containers or other such incidental facilities (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in New York, Connecticut, Rhode Island, Massachusetts, New Jersey, Delaware, Maryland, Pennsylvania, and the District of Columbia.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier in No. MC 113681 (Sub No. 12).

No. MC 116325 (Sub No. 1), filed June 26, 1958. Applicant: BYRON L. LANG, Jackson, Mo. Applicant's representative: A. A. Marshall, 305 Buder Building, St. Louis 1, Mo. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wooden pallets, pallet bins, lumber, skids and crating*, from the plant site of the Lutesville Pallet Company, Inc., located two miles south of Lutesville, Mo., to points in Illinois, Iowa and Minnesota.

No. MC 117478, filed June 25, 1958. Applicant: DICK D. SPERRY, P. O. Box 468, Charles City, Iowa. Applicant's attorneys: Grover Hoff, Suite 901 Ridgely Building, Springfield, Ill., and Mack Stephenson, 208 East Adams, Springfield, Ill. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors and tractor parts*, between Charles City, Iowa, on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Illinois-Missouri State line near Alton, Ill., and extending along Illinois Highway 140 to junction U. S. Highway 40, thence along U. S. Highway 40 to the Illinois-Indiana State line. Applicant holds contract carrier authority in Permit No. MC 60465 to perform the above transportation service and by this application seeks to convert from contract to common carrier.

PETITION

No. MC 89723 (Sub No. 4), PETITION FOR MODIFICATION OF CERTIFICATE, dated June 17, 1958, MISSOURI PACIFIC FREIGHT TRANSPORT COMPANY, a CORPORATION, 1218 Olive Street, St. Louis 3, Mo. Petitioner's attorneys: Toll R. Ware and Walter G. Treanor, 2008 Missouri Pacific Building, St. Louis 3, Mo. Missouri Pacific Freight Transport Company, petitioner, in its Certificate No. MC 89723 Sub 4 dated July 5, 1957, under condition 3, which reads in part as follows: "No shipment shall be transported by carrier as a common carrier by motor vehicle (a) between any of the following points, or through or to or from more than one of said points: Longview, Palestine, Austin, San Antonio, Laredo, Fort Worth, Waco, Houston, Hearne-Valley Junction (to be considered as a single key point) or Odem, Texas * * *," seeks modification thereof by the elimination of the key points of Longview and Hearne-Valley Junction, Tex. In support of its petition, petitioner states, (1) the key points proposed to be lifted were among those imposed by the Commission effective July

21, 1944, at which time the volume of rail less-carload traffic partially justified operation of some merchandise box cars to the key points of Longview and Hearne-Valley Junction and such points were used as breakbulk points between cars and petitioner's trucks. During the past 13 years rail less-carload traffic has steadily declined so that at the present time these two points can no longer be justified as rail breakbulk points for merchandise cars; (2) Petitioner makes no attack upon the adequacy of existing independent common carrier truck service within the territory involved but is attempting to eliminate a serious waste of transportation on the part of the Missouri Pacific Railroad by permitting the discontinuation of large numbers of lightly-loaded box cars and by more complete utilization of petitioner's presently operated truck equipment; and (3) wherefore, petitioner respectfully petitions the Commission to eliminate Longview and Hearne-Valley Junction, Texas, as key points.

APPLICATIONS UNDER 212 (c) CONVERSION PROCEEDINGS

No. MC 105 (Sub No. 2), FIRST NATIONAL BANK OF ELKHART, ADMINISTRATOR OF THE ESTATE OF LE-ROY E. FOWLER (Elkhart, Ind.).

No. MC 210 (Sub No. 3), ERVIN G. FRAEMBS, doing business as ROTH TRUCK SERVICE (Chester, Ill.).

No. MC 1351 (Sub No. 6), MORRIS HASKELL, doing business as M. HASKELL (Palmer, Mass.).

No. MC 2310 (Sub No. 1), GARY WAREHOUSE COMPANY, INC. (Gary, Ind.).

No. MC 15808 (Sub No. 21), GIRON BROS., INC. (Brazil, Ind.).

No. MC 29674 (Sub No. 1), GEORGE L. PLACE (Putnam, Conn.).

No. MC 47693 (Sub No. 9), JOHN R. CALLAHAN, doing business as CALLAHAN TRANSPORTATION (Pittsburgh, Pa.).

No. MC 48844 (Sub No. 5), MALDWYN JAMES, doing business as JAMES TRANSFER (St. Paul, Minn.).

No. MC 53321 (Sub No. 3), RAU CARTAGE, INC. (Monroe, Mich.).

No. MC 76180 (Sub No. 7), CLARENCE OLIVER ASHFORTH, doing business as CLARENCE O. ASHFORTH (Waltham, Mass.).

No. MC 109176 (Sub No. 1), VINCENT J. COSTA, doing business as COSMAR FLORIST DELIVERY SERVICE (Union, N. J.).

No. MC 109467 (Sub No. 8), SHAW WAREHOUSE COMPANY (Birmingham, Ala.).

On January 3, 1958, the Commission, division 1, instituted the above-numbered proceedings, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carriers should be revoked and in lieu thereof, certificates of public convenience and necessity issued. Said proceedings were instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondents might not be those of a contract carrier as de-

lined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carriers, as of August 22, 1957, and it has been determined that, at this time, the carriers' operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Orders of the Commission, division 1, dated June 3, 1958, vacate and set aside the orders of the Commission, division 1, entered January 3, 1958, instituting the above-numbered proceedings. Said orders discontinuing the proceedings shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceedings should not be discontinued.

No. MC 2787 (Sub No. 7), GEORGE E. WHITTAKER, doing business as WHITTAKER TRUCKING COMPANY (Toledo, Ohio).

No. MC 5619 (Sub No. 1), JOHN S. GEIGER'S SONS (Newark, N. J.).

No. MC 9279 (Sub No. 3), C. P. CRASKA, INC. (Utica, N. Y.).

No. MC 10183 (Sub No. 2), ROBERT COULSON (Camden, N. J.).

No. MC 11185 (Sub No. 108), J-T TRANSPORT COMPANY, INC. (Kansas City, Mo.).

No. MC 11723 (Sub No. 2), ARVIE J. BOWERS, doing business as BOWERS TRUCK COMPANY (Albion, Ill.).

No. MC 16675 (Sub No. 2), SHORE HAULAGE, INC. (New York, N. Y.).

No. MC 21241 (Sub No. 3), GENERAL TRANSPORTATION AND STORAGE COMPANY (Dayton, Ohio).

No. MC 21569 (Sub No. 1), MICHAEL SABATINO (Albany, N. Y.).

No. MC 29867 (Sub No. 10), NORWICH TRUCKING COMPANY, INC. (Norwich, N. Y.).

No. MC 43246 (Sub No. 14), BUSKE LINES, INC. (Litchfield, Ill.).

No. MC 59071 (Sub No. 1), ROSEN'S FILM DELIVERY SYSTEM, INC. (Hamden, Conn.).

No. MC 60153 (Sub No. 1), MRS. HAZEL H. BOLGER, doing business as BOLGER TRUCKING COMPANY (La Porte, Ind.).

No. MC 60782 (Sub No. 2), JAMES E. STAMPS AND WILLIAM J. STAMPS, doing business as, STAMPS BROTHERS (Evansville, Ind.).

No. MC 88132 (Sub No. 1), W. D. SMITH TRANS. CO., INC. (West Boylston, Mass.).

No. MC 91811 (Sub No. 9), MILTON K. MORRIS (Philadelphia, Pa.).

No. MC 91910 (Sub No. 15), WM. O'DONELL, INC. (Elkhorn, Wis.).

No. MC 102799 (Sub No. 1), PACKAGE MESSENGERS, INC. (Philadelphia, Pa.).

No. MC 109746 (Sub No. 2), ELSON TRUCKING CO., INC. (Weehawken, N. J.).

No. MC 109931 (Sub No. 11), JOSEPHINE M. OONK AND JOHN H. OONK, doing business as, STRAIGHTWAY EXPRESS (Holland, Mich.).

No. MC 111069 (Sub No. 22), COLDWAY CARRIERS, INC. (Clarksville, Ind.).

No. MC 112633 (Sub No. 1), DELIVERY SERVICE, INC. (Providence, R. I.).

No. MC 113856 (Sub No. 1), ANTHONY P. MARTINE, doing business as BERNMARTS EXPRESS (Wilmington, Del.).

No. MC 114046 (Sub No. 5), LEONARD WEST (Iron Mountain, Mich.).

No. MC 115353 (Sub No. 3), LOUIS J. KENNEDY (Kearny, N. J.).

On January 24, 1958, the Commission, division 1, instituted the above-numbered proceedings, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carriers should be revoked and in lieu thereof, certificates of public convenience and necessity issued. Said proceedings were instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondents might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carriers, as of August 22, 1957, and it has been determined that, at this time, the carriers' operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Orders of the Commission, division 1, dated June 3, 1958, vacate and set aside the orders of the Commission, division 1, entered January 24, 1958, instituting the above-numbered proceedings. Said orders discontinuing the proceedings shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceedings should not be discontinued.

No. MC 10397 (Sub No. 3), FRED STOCK, INC. (Maplewood, N. J.).

On December 13, 1957, the Commission, division 1, instituted the above-numbered proceeding, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carrier should be revoked and in lieu thereof, a certificate of public convenience and necessity issued. Said proceeding was instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondent might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carrier, as of August 22, 1957, and it has been determined that, at this time, the carrier's operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Order of the Commission, division 1, dated June 3, 1958, vacate and set aside the order of the Commission, division 1, entered December 13, 1957, instituting the above-numbered proceeding. Said

order discontinuing the proceeding shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceeding should not be discontinued.

No. MC 18037 (Sub No. 4), CHAS. LEVY CIRCULATING CO., A CORPORATION (Chicago, Ill.).

No. MC 39368 (Sub No. 1), PACKARD MOTOR TRUCK TRANSPORTATION, INC. OF NEW JERSEY (South Amboy, N. J.).

No. MC 108911 (Sub No. 4), GARDNER AND MUHLEMAN, INC. (New Martinsville, W. Va.).

No. MC 110333 (Sub No. 3), GARRISON ELEVATOR COMPANY, INC. (New Albany, Ind.).

No. MC 112184 (Sub No. 9), THE MANFREDI MOTOR TRANSIT COMPANY (Newberry, Ohio).

No. MC 115504 (Sub No. 5), KENISON TRUCKING, INC. (Salt Lake City, Utah).

On January 2, 1958, the Commission, division 1, instituted the above-numbered proceedings on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carriers should be revoked and in lieu thereof, certificates of public convenience and necessity issued. Said proceedings were instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondents might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carriers, as of August 22, 1957, and it has been determined that, at this time, the carriers' operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Orders of the Commission, division 1, dated June 3, 1958, vacate and set aside the orders of the Commission, division 1, entered January 2, 1958, instituting the above-numbered proceedings. Said orders discontinuing the proceedings shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceedings should not be discontinued.

No. MC 27089 (Sub No. 2), CHIWAU-KEE TRUCK LINES, INC. (Chicago, Ill.).

No. MC 29698 (Sub No. 14), LESTER FELLOWS CO. (Jersey City, N. J.).

No. MC 50552 (Sub No. 4), STANLEY PANEK, doing business as STANLEY'S PETROLEUM TRANSPORT (New Bedford, Mass.).

No. MC 61747 (Sub No. 2), GRANT A. KNUDSEN, doing business as "K" TRUCKING COMPANY (Batavia, Ohio).

No. MC 109491 (Sub No. 1), ROLLIN C. ARNOLD, doing business as GREGORY EXPRESS (Elmira, N. Y.).

No. MC 109558 (Sub No. 1), SOPHIA LANE AND HATTIE KAPLAN, doing

business as STATE FILM SERVICE, (New York, N. Y.).

No. MC 109654 (Sub No. 5), GREEN MOTOR LINES, INCORPORATED, (Richmond, Va.).

On January 22, 1958, the Commission, division 1, instituted the above-numbered proceedings, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carriers should be revoked and in lieu thereof, certificates of public convenience and necessity issued. Said proceedings were instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondents might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carriers, as of August 22, 1957, and it has been determined that, at this time, the carriers' operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Orders of the Commission, division 1, dated June 3, 1958, vacate and set aside the orders of the Commission, division 1, entered January 22, 1958, instituting the above-numbered proceedings. Said orders discontinuing the proceedings shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceedings should not be discontinued.

No. MC 55893 (Sub No. 2), CLAIR H. PENROD, doing business as PENROD TRUCKING SERVICE (Lansing, Mich.).

No. MC 82044 (Sub No. 1), STAR WEST CARTAGE COMPANY, INC. (Chicago, Ill.).

No. MC 84268 (Sub No. 1), JEFFERSON PARK WAREHOUSE COMPANY, INC. (Chicago, Ill.).

No. MC 93109 (Sub No. 1), TACME FILM SERVICE, INC. (New York, N. Y.).

No. MC 93110 (Sub No. 1), ROCKLAND FILM SERVICE, INC. (New York, N. Y.).

No. MC 93111 (Sub No. 1), PALISADE FILM DELIVERY CORP. (New York, N. Y.).

On January 23, 1958, the Commission, division 1, instituted the above-numbered proceedings, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carriers should be revoked and in lieu thereof, certificates of public convenience and necessity issued. Said proceedings were instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondents might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carriers, as of August 22, 1957, and it has been determined that, at this time, the carriers' operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Orders of the Commission, division 1, dated June 3, 1958, vacate and set aside the orders of the Commission, division 1, entered January 23, 1958, instituting the above-numbered proceedings. Said orders discontinuing the proceedings shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceedings should not be discontinued.

No. MC 62423 (Sub No. 3), JAMES A. LEWERS, doing business as LEWERS TRANSPORTATION CO. (North Providence, R. I.).

No. MC 71883 (Sub No. 5), A. G. JACKSON (Jamestown, N. Y.).

On December 18, 1957, the Commission, division 1, instituted the above-numbered proceedings, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carriers should be revoked and in lieu thereof, certificates of public convenience and necessity issued. Said proceedings were instituted for the reason that there was ground to believe that the operations conducted pursuant to the outstanding contract-carrier authority of the above-named respondents might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carriers as of August 22, 1957, and it has been determined that, at this time, the carriers' operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Orders of the Commission, division 1, dated June 3, 1958, vacate and set aside the orders of the Commission, division 1, entered December 18, 1957, instituting the above-numbered proceedings. Said orders discontinuing the proceedings shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceedings should not be discontinued.

No. MC 107527 (Sub No. 37), POST TRANSPORTATION COMPANY, A CORPORATION (Los Angeles, Calif.).

On February 14, 1958, the Commission, division 1, instituted the above-numbered proceeding, on its own initiative, under section 212 (c) of the Interstate Commerce Act, to determine whether the outstanding permits held by the above-named carrier should be revoked and in lieu thereof, a certificate of public convenience and necessity issued. Said proceeding was instituted for the reason that there was ground to believe that the operations conducted pursuant to the

outstanding contract-carrier authority of the above-named respondent might not be those of a contract carrier as defined in section 203 (a) (15) of the act, as amended August 22, 1957, and might be those of a common carrier.

Additional consideration has been given to the operations conducted pursuant to the permits issued to the above-named carrier, as of August 22, 1957, and it has been determined that, at this time, the carrier's operations are in conformance with the definition of a contract carrier as set forth in section 203 (a) (15) of the act, as amended.

Order of the Commission, division 1, dated June 3, 1958, vacate and set aside the order of the Commission, division 1, entered February 14, 1958, instituting the above-numbered proceeding. Said order discontinuing the proceeding shall become effective 30 days from the date of this publication unless within that period any proper party in interest show cause why the proceeding should not be discontinued.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5, GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

MOTOR CARRIERS OF PROPERTY

No. MC 107906 (Sub No. 14), filed June 30, 1958. Applicant: TRANSPORT MOTOR EXPRESS, INC., Meyer Road, P. O. Box 958, Fort Wayne, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 4, Ind. Authority sought to operate as a common carrier, by motor vehicle, over regular and irregular routes, transporting: General commodities, (1) Between South Bend and Indianapolis, Ind., via State Highway No. 31, serving all intermediate points. (2) Between Fort Wayne and Indianapolis, Ind., via State Highway No. 37, serving all intermediate points, and the off-route point of Jonesboro, Ind. (3) Between Fort Wayne and Logansport, Ind., via U. S. Highway No. 24, serving all intermediate points. (4) Between Logansport and Marion, Ind., via U. S. Highway No. 24, and State Highway No. 21, serving all intermediate points. (5) Between Logansport and Rochester, Ind., via State Highway 25, serving all intermediate points. (6) Between Marion and Rochester, Ind., via State Highway No. 21 and U. S. Highway No. 31, serving all intermediate points. (7) Between Marion and Indianapolis, via State Highway No. 21 to Muncie, Ind.; thence via State Highway No. 67 to Indianapolis serving all intermediate points, and the off-route point of Anderson, Ind. (8) Between Fort Wayne and Valparaiso, Ind., via U. S. Highway No. 30, serving all intermediate points. (9) Between Anderson, Ind., and Marion, Ind., via Indiana Highway No. 9, serving all intermediate points. (10) Between all points within a radius of 5 miles from the city limits of Plymouth, Warsaw, Columbia City, Rochester, Huntington, Wabash, Peru, Logansport, Kokomo, Marion, Muncie, Alexandria, Anderson, and Noblesville, Ind. (11) Between all points within a radius of 10 miles from the

city limits of Fort Wayne and South Bend except that the area surrounding South Bend shall not include Elkhart and Mishawaka as points of service. (12) Between all points in Marion County, Ind. General commodities over the following routes for operating convenience only and serving no intermediate points except as specified. (1) Between Columbia City and Huntington, Ind., via Indiana Highway No. 9. (2) Between Warsaw and Wabash, Ind., via Indiana Highway No. 15. (3) Between Wabash and Marion, Ind., via Indiana Highway No. 15. (4) Between Logansport and Kokomo, Ind., via U. S. Highway 35. (5) Between Kokomo, Ind., and junction of U. S. Highway No. 35 with Indiana Highway No. 21 via U. S. Highway No. 25. (6) Between junction of U. S. Highway No. 31 and Indiana Highway No. 28 and junction Indiana Highway 28 and Indiana Highway 21 via Indiana Highway 28 serving Alexandria, Ind., as a point already authorized under existing certificates. (7) Between Westfield, Ind., at junction of U. S. Highway No. 31 and Indiana Highway No. 32 and Noblesville, Ind., via Indiana Highway No. 32. (8) Between Noblesville and Anderson, Ind. via Indiana Highway No. 32. (9) Between Anderson, Ind., and the junction of Indiana Highway No. 232 and Indiana Highway No. 67 via Indiana Highway No. 32 and Indiana Highway No. 232. (10) Between junction of Indiana Highway No. 18 and U. S. Highway No. 31 and junction of Indiana Highway No. 18 and Indiana Highway 21 via Indiana Highway No. 18. General commodities, (1) Between Muncie, Ind. and Fort Wayne, Ind. via Indiana Highway No. 3 with no service to intermediate points as an alternate route. (2) Between Marion, Ind. and the junction of Indiana Highways No. 3 and 18 via Indiana Highway 18 as an alternate route serving no intermediate points. (3) Between Fort Wayne, Ind. and Baer Field, Ind., via Indiana Highway No. 3. Applicant is authorized to conduct operations in Pennsylvania, Illinois, Ohio, Indiana, Delaware, West Virginia, Rhode Island, New Jersey, Maryland, Massachusetts, District of Columbia, New York, Missouri and Wisconsin.

NOTE: This matter is directly related to MC-F 6948.

No. MC 108859 (Sub No. 29), filed June 25, 1958. Applicant: CLAIRMONT TRANSFER CO., a Corporation, 1803 Seventh Avenue North, Escanaba, Mich. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, except those of unusual value or size, and except liquids in bulk, livestock, Class A and B explosives and inflammables, and household goods as defined by the Commission, between Oconto, Wis., and Suring, Wis.: from Oconto over Wisconsin Highways 22 and 32 to Suring, and return over the same route, with service at Gillett and Suring, Wis., as points of joinder only, as an alternate route for operating convenience only. Applicant is authorized to

conduct operations in Illinois, Indiana, Michigan and Wisconsin.

NOTE: This application is directly related to proceeding in MC-F 6934, Clairmont Transfer Co.—purchase—Steffe Freight Co.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-6907 GREAT FALLS TRANSFER & STORAGE COMPANY—PURCHASE—H. E. CALEF (ERMA L. CALEF, EXECUTRIX) and M. L. DOBSON (ALICE C. DOBSON, ADMINISTRATRIX), published in the May 28, 1958, issue of the FEDERAL REGISTER on page 3684. Supplement filed June 26, 1958, to show joinder of CARL H. SUHR, 2404 Fourth Avenue Number, Great Falls, Mont., as person in control of vendee.

No. MC-F-6944. Authority sought for lease by VON DER AHE VAN LINES, INC., 4601 Olive Street, St. Louis 8, Mo., of the operating rights and to purchase the property of BEE-LINE VAN AND STORAGE COMPANY, INC., 102 Young Street, Big Spring, Tex., and for acquisition by R. L. VON DER AHE, 5185 Lindell Blvd., St. Louis, Mo., of control of such rights and property through the transaction. Applicants' attorney: Harold G. Hernly, Wrape and Hernly, 1624 Eye Street NW, Washington 6, D. C. Operating rights sought to be leased: Household goods, as defined by the Commission, as a common carrier over irregular routes between San Angelo, Tex., and points within 80 miles of San Angelo, on the one hand, and, on the other, points in Arizona, New Mexico, Oklahoma, Kansas, Arkansas, and Louisiana. Lessee is authorized to operate as a common carrier in 48 States and the District of Columbia. Application has been filed for temporary authority under section 210a (b).

No. MC-F-6945. Authority sought for merger into CONSOLIDATED COPPER-STATE LINES, 2163 East 14th Street, Los Angeles 21, Calif., of ALABAMA FREIGHT LINES, 546 West Madison Street, Phoenix, Ariz., and for acquisition by C. G. ALLEN and SERVICE TANK LINES, both of Los Angeles, and HORACE W. STEELE, 546 West Madison Street, Phoenix, Ariz., of control of ALABAMA FREIGHT LINES, through the merger into CONSOLIDATED COPPER-STATE LINES. Applicants' attorney: Reagan Sayers, Rawlings, Sayers, Scurlock & Eldson, Century Life Building, Fort Worth 2, Tex. Operating rights sought to be merged: General commodities, with certain exceptions including household goods and commodities in bulk, as a common carrier over regular routes between Phoenix, Ariz., and El Paso, Tex., between Phoenix, Ariz., and Ajo, Ariz., between Phoenix, Ariz., and Flagstaff, Ariz., and between Phoenix,

Ariz., and Florence Junction, Ariz., serving all intermediate and certain off-route points; between Florence, Ariz., and Lordsburg, N. Mex., between junction Arizona Highways 87 and 287, and Lordsburg, N. Mex., serving no intermediate points; between Florence, Ariz., and Mesa, Ariz., serving all intermediate points and certain off-route points; between Flagstaff, Ariz., and the Arizona-Utah State line, serving all intermediate and certain off-route points; between Jacob Lake, Ariz., and Bright Angel Point, Ariz., serving all intermediate points; between Solomonsville, Ariz., and Morenci, Ariz., between Clifton, Ariz., and Duncan, Ariz., serving all intermediate points; between Ajo, Ariz., and a point on the International Boundary between the United States and Mexico, near Sonoyta, Mex., serving all intermediate and certain off-route points; between Ashurst, Ariz., and Klondyke, Ariz., between Cutter, Ariz., and Christmas, Ariz., and between Superior, Ariz., and Inspiration Mine, Ariz., serving all intermediate points; numerous routes for operating convenience only; dangerous explosives, between Phoenix, Ariz., and El Paso, Tex., serving the intermediate point of Williams Field, Ariz., near Higley, Ariz., and the off-route point of Luke Field, Ariz., near Phoenix, Ariz. Vendee is authorized to operate as a common carrier in Arizona and California. Application has not been filed for temporary authority under section 210a (b).

No. MC-F-6946. Authority sought for control and merger by WELLS FARGO, INC., 1775 East Fourth Street, Reno, Nev., of the operating rights and property of S & S TRUCKING COMPANY, INC., 313 West Broadway, Farmington, N. Mex., and for acquisition by J. W. WELLS, P. O. Box 430, Las Vegas, Nev., of control of such rights and property through the transaction. Applicants' attorneys: Berol and Silver, 100 Bush Street, San Francisco 4, Calif., and Brown and Wood, P. O. Box 1144, Farmington, N. Mex. Operating rights sought to be controlled and merged: Uranium and vanadium bearing ores, as a common carrier, over irregular routes, from points in the Navajo Indian Reservation in Arizona and Utah within 150 miles of Monticello, Utah, to Shiprock, N. Mex.; supplies and equipment used in connection with the mining of uranium and vanadium bearing ores, from Shiprock, N. Mex., to points in the above-specified origin territory; uranium and vanadium ores, from points in the Navajo Indian Reservation in Arizona and Utah within 150 miles of Monticello, Utah, to Durango, Colo., and Monticello, Utah. WELLS FARGO, INC., is authorized to operate as a common carrier in Nevada, California, Idaho, Oregon, Arizona and Utah. Application has not been filed for temporary authority under section 210a (b).

No. MC-F-6947. Authority sought for purchase by SOUTHERN TANK LINES, INC., 4107 Bells Lane, Louisville, Ky., of a portion of the operating rights of J & M TRANSPORTATION CO., INC., P. O. Box 894, Americus, Ga., and for acquisition by J. F. BEARD, 1006 Ashley Street, Tampa, Fla., and J. A. GAMMON, 4107

Bells Lane, Louisville, Ky., of control of such rights through the purchase. Applicants' attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Operating rights sought to be transferred: Vegetable oil, in bulk, in tank vehicles, as a common carrier, over irregular routes, from Moultrie, Ga., to Cleveland, Ohio; between Moultrie, Ga., on the one hand, and, on the other, points in Alabama, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, Illinois, Michigan, Kentucky, and Ohio (except Cleveland). Vendee is authorized to operate as a common carrier in Illinois, Kentucky, Indiana, Tennessee, Ohio, Georgia, Missouri, Minnesota, Alabama, Florida, Louisiana, Michigan, Mississippi, North Carolina, Texas, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a (b).

No. MC-F-6948. Authority sought for control and merger by TRANSPORT MOTOR EXPRESS, INC., Meyer Road, P. O. Box 958, Fort Wayne, Indiana, of the operating rights and property of AMERICAN TRANSPORT COMPANY, INC., 625 Lincoln Boulevard, Marion, Indiana, and for acquisition by ROY HUSER, 141 Norfolk, Fort Wayne, Ind., JOHN P. FAHEY, 2411 Forrest Park, Fort Wayne, Ind., and LEON J. BAKER, 2016 Forrest Park, Fort Wayne, Ind., of control of such rights and property through the transaction. Applicants' attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Operating rights sought to be controlled and merged: Operations under the Second Proviso of section 206 (a) (1), Interstate Commerce Act, in the transportation of general commodities, as a common carrier, over various regular and irregular routes and certain alternate routes in connection with said regular routes within the State of Indiana. TRANSPORT MOTOR EXPRESS, INC., is authorized to operate as a common carrier in Ohio, Illinois, Pennsylvania, Indiana, West Virginia, Delaware, New York, New Jersey, Maryland, Virginia, Massachusetts, Connecticut, Rhode Island, Wisconsin, Missouri, and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

Note: MC 107906 Sub 14 is a matter directly related.

No. MC-F-6949. Authority sought for purchase by SCHRODER'S EXPRESS, INC., 1550 Perin Street, Cincinnati 4, Ohio, of the operating rights and property of ALFRED E. FOSSMEYER, doing business as CHECKER EXPRESS LINES, 709 South 13th Street, Vincennes, Indiana, and for acquisition by PAUL L. SCHRODER, also of Cincinnati, of control of such rights and property through the purchase. Applicants' attorneys: Robert C. Smith, 512 Illinois Building, Indianapolis 4, Ind., and Ferdinand Born, 1019 Chamber of Commerce Building, Indianapolis 4, Ind. Operating rights sought to be transferred: General commodities, with certain exceptions including household goods and commodities in bulk, as a common carrier over regular

routes between Jasper, Ind., and St. Louis, Mo., and between Evansville, Ind., and Vincennes, Ind., serving all intermediate and certain off-route points; animal and poultry feed, over irregular routes from East St. Louis, Ill., to points in Knox, Gibson, Posey, Daviess, Pike, Martin, Lawrence, Orange, Dubois, Crawford, Vanderburgh, and Spencer Counties, Ind.; livestock and agricultural commodities, from points in the above-specified counties to East St. Louis, Ill.; animal and poultry feeds and medicines, from St. Louis, Mo., to points in Knox, Gibson, Posey, Daviess, Pike, Martin, Lawrence, Orange, Dubois, Crawford, Vanderburgh, Warrick, Spencer, and Perry Counties, Ind. Vendee is authorized to operate as a common carrier in Kentucky, Ohio and Indiana. Application has been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-5216; Filed, July 8, 1958;
8:49 a. m.]

[Notice 43]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 3, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Special Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-40235 (Deviation No. 2), I. R. C. & D. MOTOR FREIGHT, INC., P. O. Box 305, Richmond, Ind., filed June 23, 1958. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over three deviation routes, (A) between Dayton, Ohio, and Richmond, Ind., as follows: from Dayton over Ohio Highway 49 to junction U. S. Highway 40, thence over U. S. Highway 40 to junction U. S. Highway 35, thence over U. S. Highway 35 to Richmond; (B) between Cincinnati, Ohio, and Indianapolis, Ind. as follows: from Cincinnati over U. S. Highway 52 to junction Indiana High-

way 46, thence over Indiana Highway 46 to junction U. S. Highway 431, thence over U. S. Highway 431 to Indianapolis; and (C) between Connersville, Ind., and Indianapolis, Ind., as follows: from Connersville over Indiana Highway 44 to junction U. S. Highway 52, thence over U. S. Highway 52 to Indianapolis; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: between Dayton, Ohio, and Richmond, Ind., over U. S. Highway 35; between Cincinnati, Ohio, and Indianapolis, Ind., over U. S. Highway 52; and between Connersville, Ind., and Indianapolis, Ind., as follows: from Connersville, over Indiana Highway 1 to junction U. S. Highway 40, thence over U. S. Highway 40 to Indianapolis.

No. MC-72300 (Deviation No. 1), AMERICAN CARLOADING CORPORATION, 111 North Fourth Street, St. Louis 2, Mo., filed June 26, 1958. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over a deviation route, between St. Louis, Mo., and Detroit, Mich., as follows: from St. Louis over U. S. Highway 40 to Indianapolis, Ind., thence over Indiana Highway 37 to Ft. Wayne, Ind., thence over U. S. Highway 24 to Toledo, Ohio, thence over U. S. Highway 25 to Detroit, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over the following pertinent routes: from St. Louis, Mo., over U. S. Highway 66 to Chicago, Ill.; and from Detroit, Mich., over U. S. Highway 112 to Mottville, Mich., thence over U. S. Highway 131 to the Michigan-Indiana State line, thence over Indiana Highway 15 to junction Indiana Highway 120, thence over Indiana Highway 120 to Elkhart, Ind., and thence over U. S. Highway 20 to Chicago, Ill.; and return over the same routes.

No. MC-106051 (Deviation No. 1), OLD COLONY TRANSPORTATION CO., INC., 56 Prospect Street, New Bedford, Mass., filed June 27, 1958. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over a deviation route, between the Eastern Terminus of the Massachusetts Turnpike at Weston, Mass., and West Stockbridge, Mass., as follows: from the Eastern Terminus of the Massachusetts Turnpike over the Massachusetts Turnpike and access routes to West Stockbridge and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Albany, N. Y., and Boston, Mass., over U. S. Highway 20.

No. MC-108473 (Deviation No. 1), ST. JOHNSBURY TRUCKING CO., INC., 38 Main Street, St. Johnsbury, Vt., filed June 26, 1958. Carrier proposes to operate as a common carrier by motor vehicle of general commodities, with certain exceptions, over a deviation route,

between the Eastern Terminus of the Massachusetts Turnpike at Weston, Mass., and Springfield, Mass., as follows: from the Eastern Terminus of the Massachusetts Turnpike over the Massachusetts Turnpike and access routes to Springfield and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Boston, Mass., and Springfield, Mass., over the following pertinent route: from Boston over Massachusetts Highway 9 to Worcester, Mass., thence over Massachusetts Highway 12 to junction U. S. Highway 20, and thence over U. S. Highway 20 to Springfield.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-5217, Filed, July 8, 1958;
8:49 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 3, 1958.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34799: *Substituted service—Rail for motor, F. E. C. Ry. Co. et al.* Filed by Southern Motor Carriers Rate Conference, Agent (No. 8), for interested carriers. Rates on freight loaded in or on highway trailers and transported on railroad flat cars, in substituted service between Jacksonville (Bowden Yards), Fla., and Miami, Fla., on traffic originating at or destined to points on applicant motor carriers beyond the named substitution points.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to Southern Motor Carriers Rate Conference, Agent, tariff I. C. C. No. 32.

FSA No. 34800: *Watermelons from and to points in the south.* Filed by O. W. South, Jr., Agent (SFA No. A3688), for interested rail carriers. Rates on watermelons, in bulk, in refrigerator cars between points in southern territory, including Ohio and Mississippi River crossings, between points in southern territory, including Ohio and Mississippi River crossings, on the one hand, and points in Virginia and Washington, D. C., on the other, and from points in southern territory to St. Louis, Mo., and points in Illinois and Indiana, all as named or described in the application.

Grounds for relief: Short-line distance formula, grouping, special rate treatment for relief lines, and operation through higher-rated intermediate territories.

Tariffs: Supplement 53 to Southern Freight Association tariff I. C. C. 1613, Supplement 11 to Illinois Freight Association

tariff I. C. C. 899. Supplement 39 to Trunk Line-Central Territory Railroads tariff I. C. C. 4796.

FSA No. 34801: *Scrap iron or steel—Southern points to Eagle City, Ohio.* Filed by O. W. South, Jr., Agent (SFA No. A3691) for interested rail carriers. Rates on scrap iron or steel, carloads from specified points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee to Eagle City, Ohio.

Grounds for relief: Short-line distance formula, and grouping.

Tariff: Supplement 2 to Southern Freight Association tariff I. C. C. No. S-14.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 58-5215, Filed, July 8, 1958;
8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

G. & W. HELLER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

G. & W. Heller; 1 Belgradeplatz, Vienna X, Austria; Claim No. 83919; \$9,773.34 in the Treasury of the United States. Vesting Order No. 1259.

Executed at Washington, D. C., on June 27, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5222, Filed, July 8, 1958;
8:50 a. m.]

BORGHILD JOHANSEN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Mrs. Borghild Johansen; Incognito Terrasse 3b, Oslo, Norway; Claim No. 62696; \$3,288.48 in the Treasury of the United States. Vesting Order No. 8711.

Executed at Washington, D. C., on June 27, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5223, Filed, July 8, 1958;
8:50 a. m.]

PIETRO IACOPI ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Pietro Iacopi, Claim No. 32812; Aurelio Iacopi, Claim No. 32813; Giuseppe Lombardi, Michele Lombardi, Ugo Lombardi, Claim No. 60661; Lucca, Italy; Assunta Paolini, Sao Paulo, Brazil, Claim No. 60661; To the claimants jointly, as their interests may appear: \$7,426.60 in the Treasury of the United States. Vesting Order No. 613.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5224, Filed, July 8, 1958;
8:50 a. m.]

ANITA BRENNECKE DE PUELMA

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Anita Brennecke de Puelma, Santiago, Chile; Claim No. 58476; \$508.09 in the Treasury of the United States. Vesting Order No. 12251.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5225, Filed, July 8, 1958;
8:50 a. m.]

ANNALIESE SEIPPEL SCHMIDT ET AL.
NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Annaliese Seippel Schmidt; Buenos Aires, Argentina; \$240.01 in the Treasury of the United States. Agnes Charlotte Seippel; a/k/a Lottie Seippel, Buenos Aires, Argentina; \$240.01 in the Treasury of the United States. Wolfgang Jorge Seippel; Buenos Aires, Argentina; \$240.01 in the Treasury of the United States. Claim No. 62578. Vesting Orders Nos. 19234, 19238.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5226; Filed, July 8, 1958; 8:50 a. m.]

STATE OF NETHERLANDS FOR BENEFIT OF
MRS. J. ECKSTEIN-MINKS ET AL.

NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

The State of the Netherlands for the benefit of:
Mrs. J. Eckstein-Minks, Miss J. A., and W. A. Eckstein; L. S. Claim No. 972; \$300.00 in the Treasury of the United States, and The Atchison, Topeka and Santa Fe Railway Company 4/95, Bond No. 38130, in the principal amount of \$500, presently in the custody of the Safekeeping Department, Federal Reserve Bank, at New York City.
Mrs. C. J., Mr. H. P. C., Mr. G. F. Ch., and Mr. H. J. de Pauw Gerlings, and Mrs. N. van Bylert; L. S. Claim No. 1026; \$3,310.00 in the Treasury of the United States, and The Atchison, Topeka and Santa Fe Railway Company 4/95, Bond No. 816, in the principal amount of \$1,000, presently in the custody of the Safekeeping Department, Federal Reserve Bank, at New York City, and all right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18521 (16 F. R. 10097, October 3, 1951) in and to The Atchison, Topeka and Santa Fe Railway Company 4/95, Bonds Nos. 9273 and 49615, in the principal amount of \$500 each. Vesting Orders Nos. 18520 and 18521. Netherlands Embassy, Office of the Financial Counselor, 25 Broadway, New York 4, N. Y.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5229; Filed, July 8, 1958; 8:50 a. m.]

JULIA ROTH

REVOCATION OF NOTICE OF INTENTION TO
RETURN VESTED PROPERTY

Notice of Intention to Return Vested Property hereinafter described to Julia Roth, Berlin, Niederschoenhhausen, Wilhelm, Wolfstr. 32, Germany, was published on April 19, 1958 (23 F. R. 2632).

Claimant, Claim No., Property, and Location
Julia Roth; Berlin, Niederschoenhhausen, Wilhelm, Wolfstr. 32, Germany; Claim No. 63115; \$100.00 in the Treasury of the United States. Vesting Order No. 4234.

The aforesaid Notice of Intention to Return Vested Property is hereby revoked.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5230; Filed, July 8, 1958; 8:50 a. m.]

KATSUMI YOSHIDA

NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Katsumi Yoshida, Yamaguchi-Ken, Japan; Claim No. 60596; \$190.00 in the Treasury of the United States. Vesting Order No. 16325.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5227; Filed, July 8, 1958; 8:50 a. m.]

STATE OF NETHERLANDS FOR BENEFIT OF
ERNST HAMBURGER ET AL.

NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Cash in the Treasury of the United States as noted below and all right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18521 (16 F. R. 10097, October 3, 1951) in and to the securities described below:

The State of the Netherlands for the benefit of:

Ernst Hamburger and Mrs. E. H. Rothols; L. S. Claim No. 825; The Kansas City Southern Railway Company 5/50, Bond No. 9960, in the principal amount of \$1,000.

Landry & Van Till; L. S. Claim No. 976; \$1,415.00. Cities Service Company 5/58, Debentures Nos. 4639 and 40457, and Cities Service Company 5/69, Debentures Nos. 17157 and 47850, all in the principal amount of \$1,000 each.

Heldring & Pierson, in liquidation; L. S. Claim No. 1009, L. S. Claim No. 1029; Cities Service Company 5/50, Debenture No. 76525, and Cities Service Company 5/58, Debenture No. 7683, all in the principal amount of \$1,000.

Miss W. P. de Haas; L. S. Claim No. 1027; \$25.00. Cities Service Company 5/58, Debenture No. 47225, in the principal amount of \$1,000.

Vesting Order No. 18521.

Netherlands Embassy, Office of the Financial Counselor, 25 Broadway, New York 4, N. Y.

Executed at Washington, D. C., on June 30, 1958.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 58-5228; Filed, July 8, 1958; 8:50 a. m.]









